Story of the Session

of the

California Legislature

of

1915

By

Franklin Hichborn

Back of the ineffectiveness of our legislative system is the indifference of the public. The Legislature continues ineffective for precisely the same reason that at the special election of 1915, at which measures of the greatest importance to the State were voted upon, out of a registration of approximately 1,250,000 only 260,000 voted.

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FRANKLIN HICHBORN'S BOOKS ON CALIFORNIA POLITICS

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PREFACE.

This little book is the fourth of a series of reviews of the work of the California Legislature. The first was issued after the adjournment of the session of 1909. It was followed by the reviews of the 1911 and of the 1913 sessions.

The purpose of publishing these reviews is to place in the hands of the people of California data by which they may form their own opinion of the course of their representative in Senate or Assembly.

It is not contended that all the measures which were before the 1915 session are considered. But enough measures are considered that the reader may form some opinion of the part which his representative took in the work of the session, the attitude he assumed, and the considerations which governed his course as a legislator.

For the tables of legislative votes, the same is claimed as was set forth in the prefaces of the other reviews, namely: That the tables have been arranged to show how each member stood on given groups of measures; that it is not pretended that all the votes on all the bills are included. It is claimed, however, that the bills included in the tables are typical of their group; are important measures of the group in which they appear, and give fair indication, so far as the record can show, of the attitude of the several Senators and Assemblymen. It is not intended to pass judgment upon the individual records. But it is intended to furnish data by which the reader can judge for himself of the record of each member.

Fewer votes are included in these tables than were given in the tables of the other reviews. This is due principally to the fact that the 1915 Legislature was without the effective anti-machine minority such as forced test votes at the 1909 session, while few measures of large importance such as marked notably the 1911 session, and in less degree the 1913 session, came to vote.

As incident to the problem which the State has at San Francisco, two chapters are devoted to the recall of State Senator E. E. Grant. There is, however, another important reason for the space devoted to this recall. Better than anything else, the incident shows the abuses possible under the recall, and the necessity of guarding against such abuses. The Grant recall illustrated as nothing else has that the recall can be safeguarded only by vigorously enforced penalties against its corruption and abuse.

The 1915 Legislature undertook to provide such penalties. Protective enactments cannot, of course, prevent the recall of a worthy official whose lot is cast in a district where standards of citizenship and morals are, with a considerable proportion of its citizens, below normal, and where the American spirit of just dealing and fair play does not hold. But the public official placed upon his defense under the recall, can be protected against misrepresentation, forgery and fraud. This the 1915 Legislature, with Senator Grant's case before it, undertook to do.

Several so-called progressive measures proposed by the 1915 Legislature, notably the Direct Primary law providing for State non-partisan elections, were rejected at the polls on October 26 last.

These measures are treated precisely as they would

have been had this book been published prior to their rejection. That the rejecting referendum vote was expressive of the purpose of even a considerable minority of The People of California, the writer does not believe. Of the million and a quarter registered voters of the State, only 260,000 voted at that election. In no case did the negative vote reach 200,000. Nearly a million registered electors did not vote one way or the other. However this may reflect upon the interest of California electors in important public questions, the vote by no means shows the attitude of the electors. Had the 961,000 who participated in the general elections less than a year before, gone to the polls, the several measures, with the exception of the so-called Revenue and Taxation amendment and that increasing the terms of members of the Superior Bench, would unquestionably have been ratified.

The 1915 review, although written immediately after the close of the session, is published several months later in the year than were the Stories of the Sessions of 1909, 1911 and 1913. But it goes to its readers before the opening of the campaign for the election of the members of the Legislature of 1917.

FRANKLIN HICHBORN.

Santa Clara, Cal., July 4, 1916.

CHAPTER I.

The California State Election of 1914.

The re-election of Governor Hiram W. Johnson in 1914 was a personal victory. Refusing to consider nomination on either the Republican or the Democratic ticket, Johnson ran as the candidate of the Progressive party. In so doing he entered the contest with the party registration overwhelmingly against him.[1]

On the face of the registered party vote, Johnson had no chance for election. The pre-election estimates of his opponents were based on this registration.

But a question of greater moment than party consideration governed the contest—Had Johnson retained the confidence of The People?

Those in touch with California political conditions realized that, with this confidence conserved, Johnson could not be defeated. They recognized also that unless he still held this confidence his election could not be accomplished. Such was the practical consideration with which campaign managers of the several parties

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1 At the time of the 1914 primaries, the Republican registration exceeded the Progressive by 204,310. The total State registration up to the closing of registration for the 1914 primaries was 930,886, as follows: Republican, 388,985; Democratic, 206,146; Progressive, 184,675; Socialist, 50,741; Prohibition, 28,199; Independent, 498; Union Labor, 661; Progressive Republican, 321; decline to state party affiliation, 70,041; scattering, 619.

had to concern themselves. The answer came with the election returns.[2]

Out of the 926,687 votes cast for Governor, Johnson received 460,495; Fredericks, his Republican opponent, 271,990; Curtin, the Democrat, 116,121. Johnson received 344,374 more votes than Curtin, his plurality over Fredericks was 188,505; he received 72,384 votes more than the combined Fredericks and Curtin vote.[3]

Nor was his large vote the only endorsement given Johnson at the 1914 polls.

Three important measures passed at the 1913 session of the Legislature—the so-called "Blue Sky law," the Conservation act, and the Redlight Abatement act—had, under the Referendum, been held up until they could be voted upon at the 1914 election. These acts were among the most important of the so-called Progressive measures which had passed the 1913 Legislature. The three were endorsed at the polls by substantial majorities.[4]

The endorsement of Governor Johnson, and of the

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2 Johnson was the first California Governor to be re-elected since the re-election of John Bilger in 1853, and the first California Governor to be re-elected for a four-year term. Up to 1863, the Governors of California were elected for two-year terms only.

3 Johnson did not, however, receive a majority of the votes cast. Richardson (Socialist) received 50,716 votes, and Moore (Prohibitionist) 27,345, while there were scattering 22 votes, making the total vote of Johnson's opponents, 466,194, 2,849 more than a majority of the 926,689 cast for Governor.

4 Comparison of the votes of the various parts of the State on these measures is interesting. Los Angeles county, for example, cast 113,608 votes for the Redlight Abatement act, while San Francisco county cast only 38,556 votes for it. Los Angeles county cast 111,470 votes for the "Blue Sky" law; San Francisco cast only 40,608. Los Angeles county cast 88,572 votes for the Conservation act; San Francisco cast only 39,876 votes for it. At San Francisco, these measures were all defeated by large majorities. At Los Angeles they were carried overwhelmingly. It will be noted that the vote for the three measures at San Francisco was practically the same.

policies with which his name is identified, was complete.

But here public interest apparently ceased. Instead of viewing the government of the State and its subdivisions as a whole, the public apparently gave attention only to the Executive. Frank C. Jordan, prominent in old organization councils, and at the head of the opposition to Governor Johnson and the so-called Progressive policies, was re-elected Secretary of State by large majority.[5]

The public was as inconsistent in dealing with the judiciary. Frank H. Kerrigan, whose affiliation with the old organization element was notorious,[6] was given no opposition whatever for re-election to the District Court of Appeal, for the First Appellate District. On the other hand, where the public identified a candidate for the bench with the movement for clean political conditions, that candidate's majority was overwhelming. Hon. W. P. Lawlor, for example, who as Superior Judge at San Francisco had presided over Graft Trials, without allowing himself to be influenced by the social standing and powerful financial and political connections of the graft defendants, was elected to the Supreme Bench with a vote of 448,134. His nearest opponent received only 328,922 votes, 119,212 less than the vote cast for Justice Lawlor.

In the same way, the State's consideration for those

5 Jordan received 487,904 votes, 27,409 more than were cast for Governor Johnson. Jordan had the Republican and Democratic nominations. Jordan's Progressive opponent was F. J. O'Brien. O'Brien's vote was 216,938. Jordan received 270,966 more votes than O'Brien. Jordan was elected with a majority of 59,763.

6 See "The System as Uncovered by the San Francisco Graft Prosecution," page 64.

who had been instrumental in the prosecution of men prominent in the financial and political affairs at San Francisco who had been trapped in the corruption of that city's municipal government, was shown in the vote cast for United States Senator.

The three principal candidates were Joseph R. Knowland, Republican; Francis J. Heney, Progressive; James D. Phelan, Democrat.

Knowland had been counted one of the leaders of the old "organization" group. He appeared in the much advertised flashlight picture, the so-called "Shame of California," taken at Santa Cruz during the 1906 Republican State convention held in that city. The picture showed a group of men prominent in the political "organization" that then dominated the State, with Abe Ruef as the central figure.[7] On the other hand, Heney had conducted the San Francisco Graft Prosecution, while Phelan had been Rudolph Spreckels's closest associate in its promotion and financing.

Outside San Francisco, Knowland received 222,682 votes, Heney 225,366, Phelan 219,271. Heney, therefore, came to San Francisco with a lead of 2684 over Knowland, and 6095 over Phelan. But at San Francisco Phelan received 60,625 votes, Knowland 31,477, while Heney received only 29,866. The San Francisco vote gave Phelan a lead of nearly 25,000 over Heney, while Knowland was left third in the race. The combined vote of Phelan and Heney was 535,128. Knowland's vote was 254,159.

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7 See "The System as Uncovered by the San Francisco Graft Prosecution," page 64.

The inconsistencies shown in the election of officials dependent upon a State-wide vote were as pronounced in the selection of Congressmen.

In the Sixth District, for example, the Progressive candidate (Elston) was elected, but by a plurality of less than 6000, while Johnson (Progressive) received in this district a plurality of 21,708, and Jordan (Republican) a plurality of 26,160. In the Eighth Congressional District, which went Progressive for Governor and Republican for Secretary of State, the Progressive candidate, L. D. Bohnett, was defeated by the Republican, E. A. Hayes, Hayes's plurality being 2793. In the Fourth District, entirely within San Francisco, the inconsistencies of the electors reached the maximum of absurdity when the San Francisco Progressives gave their nomination to Julius Kahn, one of the most conspicuous "Reactionaries," so-called, in the State.

With the State's attention centered on the contest for Governor, and little or no attention being given important State and district candidates, the electors were consistently inconsistent when they paid comparatively little attention to the selection of members of the Legislature.

The result was the election of many members of Senate and Assembly who were not in sympathy with the State Executive nor with the policies which he advocated. On the other hand, the districts from which these Representatives were elected, in the majority of cases, overwhelmingly endorsed both the Progressive administration and its policies.[8]

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8 Fresno county was a notable example of this.

Another matter that had important bearing upon the work of the 1915 session, was the retirement of many of the progressive members, Democratic as well as Republican, under whose leadership the substantial reforms which have characterized the progressive movement in California had been secured. This was not so true of the Senate as of the Assembly. In the Senate, Gates, Hewitt, Boynton, Shanahan and Caminetti, who had taken prominent part in the 1911 and 1913 sessions, were not candidates for re-election. But their loss was in a measure met by the advancement of Benedict and Chandler from the Assembly to the Senate, and the election to their first terms in the Legislature of Senator Luce of San Diego, Duncan of Butte and King of San Bernardino. Then, too, members of the types of Benson, Birdsall, Breed, Brown, Butler, Carr, Cogswell, Jones, Kehoe, Rush, Strobridge, and Thompson,[9] who had made progressive records at previous sessions, retained their seats as holdovers, or were re-elected.

On the other hand, the opposition to progressive policies had, in the Senate, been decidedly weakened. The retirement of Senators Curtin and Wright[9] had not been offset by the return of Eddie Wolfe[9] of San Francisco. The opponents of the administration in the Senate were practically destitute of leadership which was at the same time effective and capable of commanding respect.

Of the eighty members of the Assembly, only

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9 For records of members who had served at previous sessions see Senate Journals and Stories of the California Legislature of 1909, 1911 and 1913.

twenty had seen previous legislative service. Of the twenty, twelve had served in the session of 1913 only. This left only eight of longer legislative service than a single term. Of the eight, only four—Hayes, Schmitt, Young and Rutherford—had served in the memorable session of 1909[10] when the first determined opposition to the machine element paved the way for the success of the progressives in 1910. Of the eighty members, not one had served in the session of 1907, the last session absolutely dominated by the allied vice and corporation interests.

The Progressives, except in the case of Young, had lost their effective Assembly leaders. Benedict and Chandler were in the Senate. Bloodgood had been appointed to the State Board of Control. Bohnett of San Jose, W. C. Clark of Alameda, Finnegan of Nevada, Guill of Butte, Wyllie of Tulare, had not been candidates for re-election. This left the progressives in the Assembly almost destitute of leadership. They were further weakened by the loss of Rutherford. Rutherford became seriously ill a few days after the session opened, dying before adjournment was taken. Nor did any of the new members among the Progressive Assemblymen develop qualities of effective leadership.

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10 The remaining four Assemblymen who had seen previous service were McDonald, W. A., of San Francisco, and Ryan, who had served at the 1911 session; Arnerich, who had served at the session of 1905, and Brown of San Mateo, who had served in the sessions of 1899, 1901 and 1903. After being out of the Legislature for eight years, Brown was returned in 1911 and 1913. Rutherford had served in the 1901 Assembly. After being out of the Legislature for four terms he was returned in 1911.

CHAPTER II.

Organizing a Five-Party Legislature.

No Partisan Group Controlled the 1915 Legislature.

In the Assembly, five [11] parties had representation, a situation theretofore unheard of in California political history. Those labeled Republican came nearest control. Of the eighty Assemblymen, twenty-four [12] had been elected as Republicans. In addition, seven [13] had been elected with Republican and Democratic nominations, while ten [14] had had both Republican and Progressive nominations. Six [15] had had Republican, Democratic and Progressive nominations. There were still others whose names had appeared on the ballot with the Republican party label attached: Boude had had the Republican, Progressive and Socialist nominations; Rigdon had had the Republican, Demo-

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11 Republican, Democratic, Progressive, Socialist and Prohibitionist.

12 Assemblymen elected as Republicans and with no other party nomination were: Anerich, Ashley, Bartlett, Benton, Brown of San Mateo, Burke, Chamberlin, Conard, Edwards of Ventura, Godsil, Hayes of Santa Clara, Hayes of San Francisco, Long, Lostutter, McCray, McDonald, J. J. Manning, Pettis, Phillips, Rodgers, Rominger, Schmitt, Scott of Los Angeles, Scott of Fresno—24.

13 Those having had both Democratic and Republican nominations were: Boyce, Bruck, Chenoweth, Ellis, Johnson, Lyon, Quinn—7.

14 Those who had been elected as Progressives and Republicans were: Anderson, Cary, Dennett, Gelder, Kennedy, Kramer, McPherson, Ryan, Sharkey, Shartel—10.

15 Those who had Republican, Progressive, and Democrat nominations were: Canepa, Collins, McDonald, W. A. of San Francisco, Mouser, Widenmann, Young—6.

cratic and Prohibitionist; Wright of Santa Clara, the Republican, Progressive and Prohibitionist; Sisson, the Republican, Democratic, Progressive and Prohibitionist, while one member, Harris, had been nominated by all five parties, and appeared as a Republican, Democrat, Progressive, Prohibitionist and Socialist.

Untangled from the net of partisan absurdity, Harris in plain life is a Socialist and a good one. But here again partisan absurdity scored high. The Socialists had repudiated Harris because Harris wouldn't repudiate the other nominations. Of the eighty members of the Assembly, fifty-three had received Republican nominations.

No less than thirty-five had received Democratic nominations. They were the seventeen named above in connection with their Republican nominations, ten who had been elected with Democratic nomination only,[16] seven[17] who had had Progressive nomination as well as Democratic, and one, Phelps, who had been nominated by the Prohibitionists, Progressives and Democrats.

Of the eighty members, only seven[18] had been elected as Progressives alone. But twenty-eight others had been given Progressive as well as other nominations. This made thirty-five with Progressive nominations.

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16 Those who had been elected with Democratic nomination only were: Beck, Byrnes, Edwards of San Joaquin, Hawson of Fresno, Kerr, Meek, Ream, Salisbury, Tabler, Wills—10.

17 Those who had been elected with Progressive and Democratic nominations were: Avey, Browne of Tuolumne, Ferguson, McKnight, Marron, Scott of Tulare, Wright of Los Angeles—7.

18 The Assemblymen elected as Progressives only were: Encell, Fish, Gebhart, Judson, Prendergast, Satterwhite, Wishard—7.

Four had been nominated by the Socialists—Downing and Spengler, who had had no other nomination; Boude and Harris, who had received the Socialist in connection with other nominations.

Five had, in connection with nominations of other parties, been nominated by the Prohibitionists. They were Phelps, Harris, Rigdon, Sisson and Wright of Santa Clara.

Such was the partisan line-up of the California Assembly of 1915. Had partisan division meant anything at all, the fifty-three who could claim Republican nomination would have met in caucus, decided under caucus rule what the Assembly organization was to be, and with their fifty-three votes have forced such organization upon the Assembly.

But partisan lines, or partisan nomination, or multi-partisan nomination, was without meaning at the 1915 session. To say that a man has been elected as a Republican or as a Democrat or as a Progressive, or even by a combination of all three parties, gives no indication of the principles for which he stands. Long of Kings County, for example, and J. J. McDonald of San Francisco were both elected as Republicans. But these two men have little or nothing in common. Study of their votes as shown in the table on moral issues will show them more often voting in opposition than together. The same will be found true of Byrnes and Meek, both elected as Democrats only. The Democrats, Republicans and Progressives at San Francisco were so confident that Canepa would ideally represent them, that they all gave him nomination.

On the other side of San Francisco Bay, in Alameda County, the same three parties gave Young their nomination. It might be assumed from such unanimity of nomination, that the two men, living not ten miles apart, each the choice of three parties, stand for practically the same principles. But at few points do they touch. The reader will, for example, find comparison of their votes on moral issues in point.[19]

In a situation so complicated, the so-called reactionary element in the State government sought to strengthen itself by seizing the Assembly organization.[20] They attempted to do this through a combination of Democrats and Republicans. Milton Schmitt [21] of San Francisco was selected as their candidate. Schmitt's record at the previous sessions had been that of opposition to the so-called progressive policies. Possessed of more ability than the ordinary San Francisco member, Schmitt had been more or less a leader of his group at previous sessions. He had the year before even been counted a possible nominee on the Republican ticket for Lieutenant-Governor. He was unquestionably the logical candidate of the faction that was seeking control of the Assembly in opposition to the so-called progressives of all parties. One curious

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19 See Table IV appendix, votes on Moral issues.

20 At the 1909 session, the anti-machine element had a slight majority in each House. But the machine minority was organized, the anti-machine majority was not. The machine element organized both Houses, and through that organization controlled the Legislature. See "The Story of the California Legislature of 1909."

21 For Schmitt's record in the Legislature see Assembly Journals for 1909, 1911 and 1913, and the tables of Assembly votes contained in the Stories of the California Legislature of 1909, 1911 and 1913.

feature of this San Francisco politician's candidacy was the presence in the group about him of seven Los Angeles members—Bartlett, Benton, Chamberlain, Lostutter, Lyon, Reminger, and Charles E. Scott.

But it soon developed that Schmitt could not possibly be elected Speaker. The only hope the opposition had was in the cooperation of the Democratic members. Not even all those who had been elected on the Republican ticket only, appeared at the Republican caucus. At no time were more than twenty present. Schmitt adroitly withdrew his candidacy, in favor of probably the strongest man who could have been induced to make the fight—Brown of San Mateo. The caucus appointed a committee to consult with the Democrats, with the view of swinging the Democratic vote for Brown.

But the negotiations carried on between the two parties failed. Democrats of the type of Meek of Butte County refused to have any part in such a combination. The Schmitt-Brown group found itself unable to make headway.

The progressive element in the Assembly had picked as their candidate for Speaker, C. C. Young of Berkeley.

Young had been one of the principal leaders in opposition to the machine element at the 1909 session. He had served three terms in the Legislature, being elected Speaker [22] at the 1913 session. His legislative record was regarded as 100 per cent. good. As Speaker

[22] For comment on Young's election as Speaker in 1913, see "Story of the California Legislature of 1913," page 32.

of the 1913 Assembly, he had made a satisfactory presiding officer. But twelve hours before the vote for Speaker was taken, it was by no means certain that Young would be chosen. He had promises of the support of a majority of the Assembly. But he did not have a majority "signed up." Nevertheless, when the hour for decision came, there was almost a stampede for Young. Of the seventy-six members who voted for Speaker, only twenty voted for Brown. Young received fifty-six votes, fifteen more than enough to elect.[23]

The group that had supported Brown for Speaker placed Lostutter of Los Angeles in nomination for Speaker pro tem. Those who were supporting Young named Fish, also of Los Angeles. Lostutter did not make even so good a showing as had Brown. Fish was elected by a vote of 55 to 16.[24]

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23 The vote by which Young was elected Speaker was as follows:

For Young:—Messrs. Anderson, Arnerich, Avey, Beck, Browne of Tuolumne, Byrnes, Canepa, Cary, Chenoweth, Collins, Conard, Dennett, Edwards of San Joaquin, Ellis, Encell, Ferguson, Fish, Gebhart, Gelder, Godsil, Harris, Hawson, Hayes of San Francisco, Johnson, Judson, Kennedy, Kerr, Kramer, McDonald, J. J.; McDonald, Walter A.; McKnight, McPherson, Manning, Meek, Mouser, Pettis, Phelps, Phillips, Prendergast, Quinn, Ream, Rigdon, Rutherford, Ryan, Salisbury, Satterwhite, Scott of Tulare, Shartel, Sharkey, Sisson, Tabler, Widenmann, Wills, Wishard, Wright of Los Angeles, and Wright of Santa Clara—56.

For Brown:—Messrs. Ashley, Bartlett, Benton, Boude, Boyce, Bruck, Burke, Chamberlin, Edwards of Ventura, Hayes of Santa Clara, Long, Lostutter, Lyon, McCray, Rodgers, Rominger, Schmitt, Scott of Los Angeles, Scott of Fresno, and Young—20.

24 The vote by which Fish was elected Speaker pro. tem. was:

For Fish:—Messrs. Anderson, Arnerich, Avey, Beck, Browne of Tuolumne, Byrnes, Canepa, Cary, Chenoweth, Collins, Conard, Dennett, Edwards of San Joaquin, Ellis, Encell, Ferguson, Gebhart, Gelder, Godsil, Harris, Hawson, Hayes of San Francisco, Johnson, Judson, Kennedy, Kerr, Kramer, McDonald, J. J.; McDonald, Walter A.; McKnight, McPherson, Manning, Marron, Meek, Mouser, Pettis, Phelps, Phillips, Prendergast, Quinn, Ream, Rutherford, Ryan, Salisbury, Scott of Tulare, Shartel, Sharkey, Sisson,

The Assembly, practically without further division, completed organization by electing L. B. Mallory [25] of Los Gatos, Chief Clerk; H. B. Miller of Sacramento, Sergeant-at-Arms; Vincent G. Geleich of Los Angeles, Minute Clerk, and Rev. James Whittaker, Chaplain.

The partisan division of the Senate was quite as confusing as that of the Assembly. Twenty Senators —the "holdovers"—had been elected in 1912. The Progressive party was not then organized. Progressives were that year elected under the Republican label. Thus, while the Senate was safely "progressive," no less than eighteen [26] of the forty members had been elected as Republicans, eight [27] had been elected as Democrats, two only—Beban and Carr—had been elected as Progressives.

In the matter of mixed tickets, five—Chandler, Flaherty, King, Scott, and Tyrrell—had had both Progressive and Republican nominations; two—Luce and Crowley—had had nominations from Progressives and Democrats; Benedict from Progressives, Democrats and Republicans; Duncan claimed Democratic, Republican and Socialist nominations; Purkett, Democratic, Republican

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Tabler, Widenmann, Wills, Wishard, Wright of Los Angeles, Wright of Santa Clara, and Young—55.

For Lostutter—Messrs. Ashley, Bartlett, Benton, Boude, Boyce, Browne of San Mateo, Bruck, Burke, Chamberlin, Edwards of Ventura, Hayes of Santa Clara, Lyon, Rodgers, Rominger, Schmitt, and Scott of Los Angeles—16.

25 Mallory had served as Chief Clerk at the sessions of 1911 and 1913.

26 Senators who had been elected as Republicans without other nominations were: Anderson, Ballard, Benson, Birdsall, Breed, Brown, Butler, Cogswell, Finn, Flint, Gerdes, Hans, Kehoe, Lyon, Mott, Rush, Strobridge, Thompson—18.

27 Those Senators who had been elected as Democrats without other nominations were: Campbell, Cohn, Irwin, Maddux, Owens, Shearer, Slater, Struckenbruck—8.

and Prohibitionist; while Jones of Santa Clara had four nominations, Progressive, Republican, Democratic and Prohibitionist. The only member of the Senate—of the Legislature for that matter—who had not been elected on partisan ticket, was Wolfe of San Francisco. Wolfe had been elected at a Recall election without party nomination.

Partisanship in this instance certainly made strange bedfellows. Beban and Carr, for example, the only Senators elected on the Progressive ticket alone, had nothing in common.

Chandler and Flaherty had been elected under Republican and Progressive nominations. But one could have hunted the State from end to end without finding two men who differed more radically than did Chandler and Flaherty on practically every question which came before the Legislature.

But however labeled, the Senate was "progressive" —by a margin of not more than five votes. This margin was enough to block any contemplated opposition to the plans of the Progressives for organization. With practically no dissenting vote, Newton W. Thompson of Alhambra[28] was elected President pro tem.; Edwin E. Smith of Santa Barbara, Secretary; Thomas A. Brown of San Francisco, Sergeant-at-Arms, and Rev. Father Starke, C. S. P., of San Francisco, Chaplain.

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[28] Thompson at the 1909 session was one of the leaders of the anti-machine side, in behalf of the passage of an anti-Race Track Gambling bill, an effective Direct Primary law and Railroad Regulation measures. These measures were the test of a legislator's attitude toward the "machine" in those days. After the overthrow of the machine Thompson became one of the most effective men in the Legislature.

The four were the caucus nominees of the so-called progressive members. The principal contest had been over the nomination of Father Starke. Father Starke was the candidate of the San Francisco element. Father Starke's opponent was Rev. B. Dent Naylor of Hayward. Dr. Naylor had served as Chaplain of the 1913 Senate. There seemed no question of his selection, until Father Starke's candidacy was advanced. Father Starke received the caucus nomination. He was placed in nomination by Tom Finn of San Francisco, his nomination being seconded by "Eddie" Wolfe of the notorious Nineteenth Senatorial District of that city. Following Father Starke's election, the Sacramento Bee showed that the new Senate Chaplain, and the Father Starke who had been involved in the so-called Murphy name-plate affair [29] during the San Francisco graft trials, were one and the same. The incident caused some feeling, a number of members who had supported Dr. Naylor in caucus expressing regret that the facts had not been known to the Senators at the time the caucus vote was taken.

Involved with Father Starke in the name-plate matter was Rev. Father H. H. Wymann. Father Wymann, with the support of Senator "Eddie" Wolfe, was made chaplain of the 1909 Senate, and served in that capacity in the 1911 Senate. Some comment was caused at the time by the fact that Father Wymann omitted the name of Christ from the prayer which he

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29 See "The System as Uncovered by the San Francisco Graft Prosecution," Chapter XXIV, for an account of the name-plate incident.

read in the Senate. Following the course taken by his associate, Father Starke made the same omission.[30]

The election of Young as Speaker of the Assembly, and Thompson as President pro tem. of the Senate, ensured committee organization which would be in harmony with the progressive policies which had prevailed at the 1911 and 1913 sessions—the policies which

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30 The prayer used by Father Starke was adapted from a prayer composed by Archbishop Carroll in 1800. Bishop Carroll's prayer was as follows:

"We pray Thee, O Almighty and Eternal God, who through Jesus Christ has revealed Thy glory to all nations, to preserve the works of Thy mercy, that Thy Church, being spread through the whole world, may continue, with unchanging faith, in the confession of Thy Name.

"We pray Thee, who alone art good and holy, to endow with heavenly knowledge, sincere zeal, and sanctity of life our chief Bishop, N., the Vicar of our Lord Jesus Christ in the government of His Church, our own Bishop, (or Archbishop,) N. (if he is not consecrated, our Bishop-elect), all other Bishops, Prelates, and Pastors of the Church, and especially those who are appointed to exercise among us the functions of the holy ministry, and conduct Thy people into the ways of salvation.

"We pray Thee, O God of might, wisdom, and justice, through Whom authority is rightly administered, laws are enacted, and judgment decreed, assist, with Thy Holy Spirit of counsel and fortitude, the President of these United States, that his administration may be conducted in righteousness and be eminently useful to Thy people, over whom he presides, by encouraging due respect for virtue and religion, by a faithful execution of the laws in justice and mercy, and by restraining vice and immorality. Let the light of Thy divine wisdom direct the deliberations of Congress, and shine forth in all the proceedings and laws framed for our rule and government, so that they may tend to the preservation of peace, the promotion of national happiness, the increase of industry, sobriety, and useful knowledge, and may perpetuate to us the blessings of equal liberty.

"We pray for his Excellency the Governor of this State, for the members of the Assembly, for all Judges, Magistrates, and other officers who are appointed to guard our political welfare, that they may be enabled, by Thy powerful protection, to discharge the duties of their respective stations with honesty and ability.

"We recommend likewise to Thy unbounded mercy all our brethren and fellow-citizens, throughout the United States, that they may be blessed in the knowledge, and sanctified in the observance of Thy most holy law; that they may be preserved in union, and in that peace which the world cannot give, and, after enjoying the blessings of this life, be admitted to those which are eternal.

"Finally, we pray Thee, O Lord of Mercy, to remember the souls of Thy servants departed who are gone before us with the sign of faith, and repose in the sleep of peace, the souls of our parents, relations, and friends, of those who, when living,

had, in the campaigning of four years, become known as "Johnson policies." The Speaker appoints the Assembly committees. The Lieutenant-Governor, as president of the Senate, appoints the Senate committees unless the Senate by majority vote takes such appointment out of the President's hands. Twice in the history of the California Legislature this has been done.[31] Had the Senate opposition to the administration been strong enough to have named the President pro tem.,

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were members of this congregation, and particularly of such as are lately deceased, of all benefactors who, by their donations or legacies to this Church, witnessed their zeal for the decency of divine worship, and proved their claim to our grateful and charitable remembrance. To these, O Lord, and to all that rest in Christ, grant, we beseech Thee, a place of refreshment, light, and everlasting peace, through the same Jesus Christ, our Lord and Saviour. Amen."

The prayer as adapted by Father Starke, used in the Senate, and published and mailed out over the State "With the compliments of Thos. F. Finn," was as follows:

"We pray Thee, O God of might, wisdom and justice, through Whom authority is rightly administered, laws are enacted and judgment decreed, assist with Thy Holy Spirit of counsel and fortitude, the President and the members of this Senate, that their administration may be conducted in righteousness and be eminently useful to the people of this State, by encouraging due respect for virtue and religion, by a faithful execution of the laws in justice and mercy, by restraining vice and immorality.

"Let the light of Thy divine wisdom direct their deliberations and shine forth in all the proceedings and laws framed for our rule and government, so that they may tend to the preservation of peace, the promotion of national happiness, and the increase of industry and sobriety, and useful knowledge, and may perpetuate to us the blessings of equal liberty.

"We recommend likewise to Thy unbounded mercy all our fellow-citizens throughout this State, that they may be blessed in the knowledge and sanctified in the observance of Thy most holy Law, that they may be preserved in union, and promote the glory of Thy Holy Name, and that after enjoying the blessings of this life, they may be admitted to those that are eternal. Amen."

31 In 1887, when a Republican, Waterman, was Lieutenant-Governor, and the Senate majority was Democratic; in 1897, when the Lieutenant-Governor was a Democrat, and the Senate majority was Republican. A Republican, Stephen G. Millard, had been elected Lieutenant-Governor, but died in office. A Democrat, Budd, was Governor. Governor Budd appointed William T. Jeter, a Democrat, to be Lieutenant-Governor. When the Senate convened in 1907, the Republican majority named the Senate committees.

it would have been strong enough to have dictated the appointment of committees. But the opposition developed no such strength.

Although labeled "Progressive," the organization of Senate and Assembly was as a matter of fact non-partisan. The powerful position of Governor Johnson, with nearly half a million votes back of him, unquestionably had important influence in compelling such organization. The desire of progressive Democrats to secure results regardless of party consideration also had important bearing upon the outcome. Then, too, there was the "band-wagon" consideration. The Progressives were in position of power, they could give or withhold the favors that go with political place. These favors are the counters of the political game. From corporation president to the holder of a janitor's job on the San Francisco waterfront, there was no desire to offend those who, for the moment, were charged with distribution of the counters. In both Senate and Assembly were old-time henchmen of Abe Ruef under "Progressive" labels. There were employees of public-service corporations elected as "Progressives" and far more loudly "Progressive" than those who had been instrumental in the kicking of those same corporations out of control of the State government. When Young in the Assembly and Thompson in the Senate developed strength, there was a flocking to them of men who had little in common with either, and who, had a "machine" Governor been in the office of Chief Executive, would have given them no more consideration than Young and Thompson had received at the session of 1909.

CHAPTER III.

Meeting the Biennial Tax Problem.

Scarcely had the Legislature organized than the attention of the members was called to the unsatisfactory condition of the State's finances.[32] They found themselves called upon:

(1) To equalize taxes as between the banks, public-service corporations, etc., that are taxed for State purposes, and the general taxpayers who are taxed for local purposes.

(2) To provide sufficient revenue for the maintenance of the State government for the next two years.

The 1911 Legislature had attempted this job, failed, and passed the problem on to the Legislature of 1913. The 1913 Legislature had had no better success, and had passed the problem on unsolved to the Legislature of 1915. And in 1915, the problem had grown to proportions which few in 1911[33] had anticipated, but which by 1913 had been generally recognized as coming.

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32 Under the present California revenue and taxation system, certain groups of public service corporations pay a percentage tax on their gross earnings for State purposes only. They pay no local taxes at all on their operative property. On the other hand, the general taxpayer pays all the local—that is to say, county, municipal and district—taxes but is popularly supposed to be relieved of all obligation to pay taxes for State purposes. The system is fully explained, with an account of how it came to be adopted, in the "Story of the California Legislature of 1913."

33 The eventual results of the new revenue and taxation system were, however, predicted in the Sacramento Bee during the period in which the 1911 Legislature was in session. These predictions are now fully borne out by conditions.

Developments of the two years preceding the opening of the 1915 session, threatened important decreases in the State's revenues.[34] The State authorities, in estimating the 1915-16 budget, placed the total prospective expenditures for the two years at $36,133,214.55, and the estimated receipts at $33,266,800. These sums did not take into account anything save fixed charges. Nor did they contemplate the loss of State revenues, about $840,000 a year, caused by the loss of the poll tax, which had at the 1914 general election been abolished by direct vote of The People.

Without counting the loss of the poll tax, the prospective deficit was $2,866,414.55. With the loss from poll tax added—approximately $1,680,000 for the two years—the prospective deficit for the biennial period was increased to upwards of $5,000,000. That had to be met.

If there can be humor in such a situation, the fact that the uninformed, untried, haphazard-selected members of the California Legislature of 1915 were called upon to provide that revenue, may be called humorous. The State's vast machinery for raising revenue was in their hands, to be sure. But they were entirely unpre-

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34 Among the reasons for this were:

(1) Opening of the Panama Canal will decrease the incomes of certain railroads, and automatically decrease the State's revenue on the gross earnings of such propertles.

(2) Reduction by the State Railroad Commission of public service corporation rates. So far as these reductions decreased gross earnings, the State's revenues were affected.

(3) The advent of the jitney bus, which reduced the gross incomes of street railroads, and even urban electric and steam roads, thereby automatically reducing the State revenues.

(4) The European war, which had affected adversely the incomes of certain corporations.

(5) Abolition of the poll tax.

(6) Abolition of the corporation license tax.

pared to employ that machinery intelligently. Quite as unprepared as the 1911 Legislature, or the 1913 Legislature, had been. This was recognized by all in touch with the situation; even the members themselves recognized their unpreparedness and incapability. Whatever plan for increasing the State revenues should be decided upon had to originate outside the Legislature.

Long before the Legislature convened, therefore, State officials met at Sacramento to consider the situation. As the public-service corporations, in theory at least—being relieved of all county, municipal and district taxes—are supposed, in lieu of paying local taxes, to pay the bulk of the tax for State purposes, representatives of the public-service corporations affected were admitted to the conference.[35]

The conference developed the fact that proportionately the corporations, as a whole, were not paying so large a tax as the general property owners. Local, municipal and county taxes—all paid by the general taxpayer—had, during the two years, increased largely.[36] By a process of computation which at no point favored the general taxpayer, the State's representatives decided that the general taxpayer's rate, the State over, was $1.2183 on each $100 of the actual value of his property.

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35 Among those present at the meeting were: Clyde L. Seavey, member State Board of Control; Professor Carl Plehn, tax expert for the State Board of Equalization; Thomas Eby, Secretary of the State Board of Equalization—all representing the State; Warren Olney, Jr., Western Pacific Company; C. V. Cowden, Southern Pacific Company; G. G. Tunnell, J. Harry Scott, Charles E. Jewett, L. E. W. Pioda and W. K. Kline.

36 County assessment rolls showed an increase of 10.15 per cent.; county taxes, 20 per cent.; city assessment rolls, 15.29 per cent.; city taxes, 22.23 per cent.

On the other hand, the public service corporations, as a whole, were paying, according to estimates based on the only available data, from $0.8625 on the $100 of actual value paid by the gas and electric companies, to $1.0872 on the $100 actual value paid by the telegraph and telephone companies.[37]

Even representatives of the corporations who attended the conference, it is claimed, admitted a disproportion. The solution of the problem would, then, seem to have been comparatively easy. By increasing the taxes paid by the corporations to apportionately those paid by the general taxpayer, the prospective deficit would have been wiped out. This would have involved an increase of from twelve per cent. on the rates paid by the telephone and telegraph companies, to more than forty per cent. on the rates paid by the gas and electric companies.

But no such simple procedure was followed. Indeed, attempt was made to shift the burden from the corporations to the general taxpayer. The plan was advanced to meet the prospective deficit by levying an ad valorem State tax. This would have compelled the general taxpayer, in addition to paying all local taxes, to pay part of the State taxes.[38] But Governor Johnson opposed this.

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37 These rates are a trifle lower than those arrived at by Carl C. Plehn, under whose direction the State's present scheme of revenue and taxation was devised. According to Plehn's calculations, the gas and electric companies were paying $0.8763 on the $100 and the telephone and telegraph companies $1.1245. The car companies and express companies were (Plehn's estimates) paying $1.2587 and $1.5413 respectively. Increase of the rates of the last two groups named was not contemplated. The Legislature reduced each materially.

38 This plan was constantly referred to during the session. Attorney General U. S. Webb, at a meeting of the Senate Com-

"I ask," said the Governor in his biennial message to the Legislature, after he had recited the details of the situation, "that immediately you undertake appropriate investigation, and that such determination be rendered by you during the first portion of your session as shall equalize the burden of taxation, and require the payment by the corporations mentioned of their just proportion."

The recommendation would have been more practical had the Legislature had the machinery, and the time, and the expert knowledge, to conduct such an investigation. It had none of these. It could conduct no adequate investigation. It conducted no investigation at all. This is not intended as reflection upon the Legislature. The statement is, however, a decided reflection upon a legislative system which, not only in this instance, but at many points, fails to meet the requirements of the State.

The Legislature, unable to make practical investigation, was compelled to accept data prepared for it by those who had attended the conference of State officials before the Legislature convened. It may be pertinent to add that the member of the conference who was best prepared for the work, was Mr. Carl Plehn, to whom, more than to any other, is due the State's present taxation system.

The simple procedure of raising the rates paid by the public-service corporations to a percentage sufficient

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mittee on Revenue and Taxation, denied that the present scheme of taxation is inelastic. General Webb held that the elastic provisions of the scheme had never been employed; namely, the provisions for levying a State tax upon the general taxpayer. General Webb contended that the scheme should not be regarded as a failure until this had been tried.

to make their taxes proportionately the equal of those of the general taxpayer, was not followed. The increases recommended ranged from a little more than seven per cent. increase for the telephone and telegraph companies, to a little less than 15 per cent. increase for the gas and electric companies.[39] The recommended increases contemplated a 10 per cent. increase in the total tax paid by the several corporations. Under the proposed increases approximately $2,700,000 would be added to the State's revenues for the biennial period. This was within $100,000 of budget requirements, but it did not make up the loss of $840,000 a year—approximately $1,700,000 for the biennial period—because of the loss of State income from poll taxes. The recommendations, therefore, failed in the purpose of the proceedings. Under the recommendations the prospective deficit would not be met; nor would the tax burdens of public-service corporation and of general taxpayer be equalized.

Nevertheless, the Legislature adopted the recommendations and made them the basis of the attempted readjustment. The Legislature did this, not because the readjustment was regarded as satisfactory—indeed, all who knew anything about it, regarded it as decidedly

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39 The recommendations involved the following changes in the percentage tax paid by the several groups of corporations on their gross earnings:

Railroads from 4.75 per cent. to 5.25 per cent.
Gas & Electric companies from 4.60 per cent. to 5.25 per cent.
Telephone & Telegraph companies from 4.20 per cent. to 4.50 per cent.
Express companies reduced from 2 per cent. to 1.60 per cent.
Car companies reduced from 4 per cent. to 3.95 per cent.
The further recommendation was made that the percentage taxes of banks and on general franchises be increased from one per cent. to 1.20 per cent.

unsatisfactory—but because the Legislature had neither the machinery nor the time to make more practical readjustment.

There were, of course, members in both houses who recognized the proposed readjustment to be unjust to the men and women of California who are called upon to meet the public expenses. But in all the Legislature, there was but one member, Kehoe of Humboldt, who gave practical opposition.

When in the Committee on Revenue and Taxation, the question of the increase in the rates of gas and electric companies came up, Kehoe showed that by giving the corporations affected all the best of the figures, they would, with the increased raise, pay not more than $1.00 on the $100 valuation. This was far below the $1.21 or more paid by the general taxpayer.

"The proposed 5.25 gross-earnings rate for gas and electric companies," insisted Kehoe, "is an unjust discrimination against the people of California. If the people were in a position to go into court and contest these rates, as a corporation could and would do, such disproportionate rates would not be established."

Not a man present disputed Kehoe's statement. They knew him to be right. But when Kehoe moved that the committee fix the rate on gross earnings at 6 per cent., as a sort of happy compromise, he was given little support. The attitude of those who opposed Kehoe was fairly expressed by Assemblyman McKnight.

"I am," said McKnight, "going to accept our experts' figures, although I could not testify as to my reason for so doing. But the experts are in charge of this matter, and with conditions such as they are,

there is nothing for me to do but to accept their judgment."

Assemblyman Prendergast[40] moved as substitute for Kehoe's motion that the gas and electric rate be fixed in accordance with the experts' recommendation. Prendergast's motion prevailed, Shartell being the only member of the joint committee who voted with Kehoe against Prendergast's motion.

Those who voted for Prendergast's motion and against raising the gas and electric companies' rates to a point beyond the $0.99 on the $100 actual valuation recommended were: Assemblymen Meek, Anderson, Conard, Fish, Kennedy, McKnight, Mauser, Phelps, Prendergast, Wiederman, H. W. Wright; Senators Cogswell, Thompson, Birdsall, Strobridge, Tyrrell, Flint, Maddux.

No other practical effort was made to compel more equitable readjustment. Men, who like Kehoe recognized the inequalities, saw the futility of opposition.

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40 Prendergast was, at the time the 1915 Legislature convened, and had been for many years, an employee of the Pacific Telephone and Telegraph Company. The Special Report on Comparative Tax Rates, made by the State Board of Equalization in 1913, showed that of the $53,321,040 values in telephone and telegraph properties in the State, $42,332,553 were of the Pacific Telephone and Telegraph Company. The average tax (ad valorem basis) paid by the telephone companies in 1912 was $0.90 on the $100 of actual values. This was almost twenty-four cents below the rate paid by the general taxpayer. But the majority of the smaller telephone companies were paying a higher rate than that paid by the general taxpayer, their rates running up as high as $1.89. The low average rate paid by the telephone and telegraph companies was due to the fact that the Pacific Telephone and Telegraph Company, owning four-fifths of the entire telephone properties of the State, was paying only $0.8476 on the $100. The enormous interest of the Pacific Telephone and Telegraph Company in the taxation issue before the 1915 session of the Legislature is apparent.

The bill providing for the new rates passed the Senate without a dissenting vote.[41]

In the Assembly some opposition to the details of the readjustment developed. Several attempts were made to increase the corporations' rates. The debate on these proposed increases only emphasized the unpreparedness of the Legislature to deal with the issue. The rate which above all others should, on the showing that had been made, have been raised, was that of the gas and electric companies. But on the gross earnings basis, the gas and electric companies' rate had been fixed at 5.25 per cent. The rate of the telephone and telegraph companies, paying proportionately more than the gas and electric companies had been fixed at 4.50 per cent. Assemblyman Canepa, seeing only the figures, offered an amendment to increase the rate of the telephone and telegraph companies to 5.25 per cent., the same percentage rate as had been fixed for the gas and electric companies.

When the bill came to final vote, one member only, Hawson of Fresno, voted against it.[42]

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41 The measure was known as Senate bill 24. The vote was:

For the bill—Senators Anderson, Ballard, Behan, Benedict, Benson, Birdsall, Brown, Butler, Campbell, Carr, Cogswell, Cohn, Crowley, Duncan, Finn, Flaherty, Flint, Gerdes, Hans, Irwin, Jones, Kehoe, King, Luce, Lyon, Maddux, Rush, Scott, Shearer, Thompson, Tyrrell and Wolfe—32.

Against the bill—None.

42 The Assembly vote on Senate Bill 24 was:

For the bill—Assemblymen Anderson, Arnerich, Avey, Bartlett, Beck, Benton, Boude, Boyce, Brown, Henry Ward; Browne, M. B.; Burke, Byrnes, Canepa, Cary, Chenoweth, Collins, Conard, Dennett, Downing, Ellis, Encell, Ferguson, Fish, Gebhart, Gelder, Godsil, Harris, Hayes, D. R.; Hayes, J. J.; Johnson, Judson, Kennedy, Kerr, Kramer, Long, Lostutter, Lyon, Manning, Marron, McDonald, J. J.; McDonald, Walter A.; McKnight, Meek, Mouser, Pettis, Phelps, Phillips, Prendergast, Quinn, Ream, Rigdon, Rodgers, Rominger, Ryan, Salisbury, Satterwhite, Schmitt, Scott, Chas. E.; Scott, Fred C.; Scott, L. D.; Sharkey, Shartel,

Sisson, Spengler, Widenmann, Wills, Wishard, Wright, H. W.; Wright, T. M., and Mr. Speaker—70.

Against the bill—Assemblyman Hawson—1.

Mr. Hawson's explanation of his vote was as follows:

"In voting as I did upon Senate Bill No. 24, the Revenue and Taxation measure, I was prompted by the conviction that the system of taxation now in vogue in this State is without basis of reason, justice or equity; that the principle underlying this measure fails to take into account community created and community owned values that are available for, and should be the basis of, our taxation system, and substitutes for a definite, certain and easily ascertained basis one that is fluctuating and uncertain. Further, I was actuated by the honest conviction that a system which differentiates between the power of the Legislature to increase the rate of taxation imposed upon public service corporations, and its power to increase the rate of taxation imposed upon individual taxpayers, is inequitable and unwarranted."

CHAPTER IV.

Patching Up a Bad Job.

The Legislature in its groping readjustment of the tax rates paid by the public-service corporations had not even solved the problem of the State's immediate needs. There was still approximately $1,700,000 for the biennial period to be made up. Since the large sum could not now be assessed against the corporations chargeable with a gross earnings tax for State purposes, the Legislature had to turn to other sources.

There were, however, several methods by which the prospective deficit could be avoided:

(1) A general State ad valorem tax could be levied upon all property. This would compel the general taxpayer, in addition to paying all local taxes, to pay a State tax.

(2) The State apportionment for public schools could be cut down $800.000 a year, leaving the districts to raise the money by direct tax. In a somewhat disguised form, this plan was about the same in effect as the first. The general taxpayer would be called upon to meet the deficit by direct tax.

(3) The corporation license tax could be re-established. This tax, some years before, had been declared unconstitutional by the State Supreme Court. The 1913 Legislature accordingly repealed the law. The State Supreme Court, following a later Federal decision,

then reversed itself and held the Corporation License tax to be constitutional. But as the law, between the two decisions, had been repealed, the second decision did not help the State.

(4) The personal inheritance tax, which yielded the State $2,500,000 in 1914, could be increased, or better methods could be provided for hunting out estates that come under the provisions of the act. This tax could, it was held, very readily be increased another $800,000 a year.

(5) An income tax could be levied for State purposes. Under this plan, those who would come under the provision of a State Income Tax law, in addition to paying local taxes, would be called upon to pay an additional State tax. The corporations would, however, still be relieved of all local taxes on their operative property.

Suggestion that any of these methods be employed was, of course, opposed by those who would pay the tax.

There remained another solution, however, which was unique in that it was favored by those who would pay the tax, and opposed most vigorously by those who would have nothing to do with its payment. The State could levy a license tax upon saloons for State purposes.

Liquor interests were not only willing to have such a tax imposed, but had been advocating it for several years. Attempts had indeed been made at previous sessions to secure enactment of laws to that end. Such measures, while supported by legislators who were not unfriendly to the liquor interests, had been vigorously

and successfully opposed by the temperance forces.[43] The principal argument advanced against such legislation was, that the liquor interests, having a State license in addition to a Federal license, would be given a hold which would greatly increase the difficulties in the way of practical solution of the liquor problem.

The situation at Sacramento at the opening of the 1915 session, offered the liquor people exceptional opportunity for carrying out their plans for a State license. The responsibility of meeting the prospective deficit in the State's revenues was burdening the administration. The public-service corporations were opposing suggested increase of their gross-income rates. Governor Johnson had taken the position that he would not approve the imposition of an ad valorem State tax upon the general taxpayer. The willing liquor interests apparently offered a way out.[44] The State authorities were inclined to avail themselves of the opportunity.

Furthermore, when the legislators arrived at Sacramento, several of the most prominent of the temper-

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43 See Senate Bill 804, 1913 series. This measure imposed an annual license tax of $100 upon retail liquor dealers and of $200 upon wholesale dealers. In each instance one-half the tax was to go to the State and one-half to the political subdivision in which the licensed establishment was located. The bill did not get through the Senate.

44 The Sacramento Bee, in its issue of December 30, 1914, after reciting the efforts being made to meet the situation, continued:

"The plan that first comes into the minds of most people, and one which probably would give general satisfaction, is to obtain that money by putting a tax on liquor—to be more specific, on the saloons.

"There are 17,000 saloons in the State of California. A tax of $100 per year on each saloon would raise $1,700,000 per year from that source alone.

"The idea among those who advocate strongly this method of procuring additional necessary revenues is that this tax should be $150 or so—so that if a great number of saloons went out of business, still the revenue raised would be about sufficient."

ance and prohibition leaders among them signified their approval of the State liquor-tax plan. Again, was failure to grasp the problem apparent. The claque at the capital which was advocating the State liquor license, was active in making it appear that unless this plan were adopted, the prospective deficit would have to be made up by an ad valorem State tax upon general taxpayers. Some of the most pronounced opponents of the liquor traffic took the ground that when it comes to a choice between increasing the tax burden of the people, or taxing the saloon, they would put the tax upon the saloon.

But, however favorably viewed at Sacramento, the proposed State license for saloons was not received with favor throughout the State. Both Houses received numerous protests against such recognition of the liquor traffic. The plan was finally abandoned.

It was not until the closing days of the session that definite steps were taken to meet the emergency. This was done:

(1) By restoring the corporation license tax, which had been abandoned in 1913 under the first decision of the State Supreme Court. It was estimated that from $600,000 to $750,000 a year would be derived from this source.

(2) By readjustment, and in a number of instances advancement, of inheritance tax rates.

But none regarded the solution of the problem accomplished. The 1915 Legislature had taken makeshift method of getting along for another two years, just as the 1913 Legislature had done, just as the

1911 Legislature had done, and just as the 1917 Legislature, unless the problem be worked out in the meantime, will be compelled to do.

This was generally recognized. The Legislature accordingly undertook the preliminary work for the substitution of a more practical revenue and taxation system.

CHAPTER V.

Attempted Solution of Tax Problem.

At the 1913 session, members of both Houses had recognized that steps should then be taken toward practical solution of the problem of the State's revenues. But no plan which met with general approval was offered. Nevertheless, several were suggested. Avey in the Senate and Cram in the Assembly introduced constitutional amendments to do away with the present arrangement, and to restore the ad valorem system which had been discarded in 1910. While members of the 1913 Revenue and Taxation Committees recognized the weaknesses of the new system, they were not prepared to recommend a return to the old. The proposed change did not get beyond committee consideration.

Other members of the 1913 Legislature, prominent among them Senator Newton Thompson, proposed a commission to consider the problem, and report to the Legislature of 1915. Senator Thompson and his associates held that unless this were done, the 1915 session would be as unprepared to meet the situation as the 1913 had been found to be. The truth of this contention was generally recognized. But it was difficult to arouse interest. As a result, nothing was done. The 1913 Legislature adjourned without provision for such a commission having been made.

When the 1915 Legislature met, Senator Thompson

not only continued his advocacy for the appointment of a tax commission but introduced a bill to that end.

This measure (Senate Bill 962) empowered the Governor to direct any State officer, or to appoint or authorize the employment of any expert or other assistants to investigate the systems of revenue and taxation in force in this and other States, and to make special investigation into the existing California system. Provision was also made that the commission should report its findings and conclusions, with recommendations as to changes in the existing system, to the 1917 Legislature. To meet the expenses of the work, $75,000 was provided.

The measure met with little opposition. The need for the investigation contemplated was apparent. But two adverse votes were called against the bill in the Senate, and none in the Assembly.[45]

The most important matter to come before the 1917 Legislature will be this commission's report and findings. But even with the report before them, the members of the 1917 Legislature will be under serious handicap. Agents of large interests who have been

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45 The vote by which Senate Bill 962 was passed was:

In the Senate, for Senate Bill 962—Senators Anderson, Benedict, Benson, Birdsall, Brown, Butler, Campbell, Chandler, Cogswell, Cohn, Crowley, Finn, Flaherty, Flint, Gerdes, Jones, Kehoe, Luce, Lyon, Maddux, Mott, Owens, Slater, Strobridge, Thompson, and Wolfe—26.

Against Senate Bill 962—Senators Duncan and Purkitt—2.

In the Assembly, for Senate Bill 962—Assemblymen Anderson, Arnerich, Ashley, Benton, Boude, Boyce, Browne, M. B.; Burke, Byrnes, Canepa, Collins, Conard, Downing, Edwards, R. G.; Ellis, Encell, Ferguson, Fish, Gelder, Godsil, Harris, Hawson, Hayes, D. R.; Judson, Kerr, Lostutter, Lyon, Marron, McCray, McDonald, W. A.; Meek, Mouser, Phelps, Phillips, Prendergast, Quinn, Ream, Scott, F. C.; Sharkey, Sisson, Wills, Wright, H. W.; Wright, T. M., and Mr. Speaker—44.

Against Senate Bill 962—None.

studying the problem for years will be on the ground. These agents will be informed of every detail of the commission's report. Comparatively few members of the Legislature will have any knowledge of the report at all. The agents will know just what is to the best advantage of their corporations. They will know exactly what they want. Moreover, they will have been in personal touch with members of the commission, with constant tactful suggestions as to what the report should contain.

On the other hand, the members of the Legislature will not have been in touch with the commissioners. They will, with few exceptions, have little idea as to which parts of the report, if any, should, for the best interests of the State, be rejected and which adopted. Nor will they, during the three months or less period of the session, have opportunity to inform themselves. This will not be the fault of the members. It will, however, be the fault of a legislative system which no longer meets the requirements of the State. Whatever changes the legislators adopt will have to be on their faith in the commission, or on the suggestion, or at the dictation, of others.

Having provided for a commission to report at the 1917 session, the Legislature anticipated anything which the commission may recommend, by adopting a constitutional amendment which, had it been ratified by The People, would have made radical changes in the present constitutional restrictions governing taxation.[46]

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[46] This amendment was defeated at the polls, October 26, 1915.

The development of the campaign for the submission of this amendment is interesting. Early in the session there was more or less talk about the lobbies to the effect that when a new system of revenue and taxation should be adopted, it should provide:

(1) That the subject of taxation should be left to the Legislature.

(2) That the assessment of property and the imposition and collection of taxes, should be centralized and in control of a State commission.

The suggestions were not new. They had been thrown out long before the Legislature convened. But as the average man on the street is no better equipped as a tax expert than is the average member of the Legislature, few appreciated the importance of the suggestions. At any rate, there was little or no expression of opinion one way or the other. So far as the writer knows, the source of the agitation for the proposed change was the California State Tax Association.

The work of this association is supported by a number of large taxpayers. John S. Drum, the San Francisco banker, is the association's chief sponsor. For a time its secretary was Alex. Brown. Brown has been a familiar figure in California politics for years. He was long one of the lesser leaders of the "organization." After Brown's resignation as secretary his place was filled by Dudley Cates. The association is doing in the interest of large taxpayers what the State should be doing in the interest of all taxpayers, namely, collecting data on revenue and taxation, and formulating plans for changes in the present system.

In a pamphlet issued in February, 1915,[46a] the association recommended that the system of assessment and tax collection be centralized, and that the Legislature be relieved of constitutional restraint in the matter of assessment and tax levy. The association's influence in behalf of the plan was felt, however, as early as January, and to the association is no doubt due the quiet publicity work, which had been going on even before the Legislature convened, in behalf of the proposed changes.

Toward the close of the first part of the session, Senator Newton W. Thompson introduced two constitutional amendments dealing with the taxation problem.

Under the first of these amendments (S. C. A. 30) the Legislature was "authorized and empowered to revise, amend or annul by statutory enactment, any, or all, of the provisions of Section 14 of this article (Article XIII, State Constitution) relative to the separation of State and local taxation of public service and other corporations.

The second amendment (S. C. A. 31) provided for a State tax commission of three members to be appointed by the Governor. The commission was empowered to supervise and control the administration of all laws providing for the assessment of property and the imposition and collection of taxes; to prescribe and enforce rules and regulations for the direction of all assessors and local boards of equalization; to exer-

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46a "The Problem of Taxation in California." This pamphlet can be had by addressing Dudley Cates, Secretary of the California State Tax Association, Hobart Building, San Francisco.

cise all powers and perform all duties imposed upon the State Board of Equalization, to assess or equalize the assessment of all classes of property as prescribed by law.

These amendments did not get further than the Senate Judiciary Committee.

During the legislative recess, and in the opening days of the second part of the session, numerous conferences were held among those directly interested in the taxation problem. The California State Tax Association was represented at these conferences, as were the large public-service corporations. Of the members of the Legislature in attendance Senator Thompson was by all odds the best informed. But Senator Thompson had numerous other demands upon his attention. The representatives of the Tax Association and public-service corporations on the other hand were able to give undivided attention to the deliberations. And the fact should not be lost sight of that these representatives of private interests were there in behalf of private interests. Incidentally, it may be added that these private interests were not paying experts to go to Sacramento to influence legislative action that would increase their tax bills.

As a result of these conferences a new constitutional amendment (S. C. A. 38) was finally introduced.[47] Broadly speaking, this amendment contained

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47 Senate Constitutional Amendment No. 38 was the result of several conferences at which various drafts were considered. A draft submitted by Warren Olney, Jr., Attorney for the Western Pacific Railroad Company, provided for a State Tax Commission of three members to be appointed by the Governor. This Commission was (1) given the present powers of the State Board of Equalization, (2) empowered to equalize particular assessments

the two principal provisions of the amendments introduced by Thompson during the first part of the session. Upon the Legislature was conferred the power to define and classify the subjects of taxation, to prescribe the manner and method of assessing, levying, equalizing and collecting taxes. Further provision was made for doing away with the State Board of Equal-

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upon the county assessment rolls save insofar as such duties or powers may be discharged by law, (3) given general supervision of the entire system of taxation throughout the State, (4) given exclusive powers in the assessment of the operative properties of public service corporations. The further provision was made that "nothing in this constitution shall be taken to forbid provisions being made by law for the taxation of different classes of property by different methods, provided only that in creating such different classes of property and providing different methods for their taxation the purpose be observed of having all classes pay the same rate of taxation upon an ad valorem basis, so far as the same can be reasonably accomplished."

The draft submitted by the California State Tax Association provided definitely that "The power to provide, by general laws, for the levy and collection of taxes and assessments, of every kind and character, for the purpose of paying the debts of and providing revenues for the State and all of its political subdivisions and municipal corporations, is hereby vested in The Legislature of the State of California, subject to the limitations contained in Sections Twelve and Thirteen of Article XI of this Constitution."

The amendment, as it was finally adopted by both Houses and submitted to The People, read as follows:

First—Section one of article thirteen of the Constitution is hereby amended to read as follows:

Section 1. All taxes shall be levied and collected under general laws and shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax. The Legislature shall define and classify the subjects of taxation, and prescribe the manner and methods of assessing, levying, equalizing and collecting taxes, for State, county, city and county, municipal and district revenues. In the exercise of this power the Legislature may designate certain classes of subjects as taxable in whole or in part for State revenue, and certain classes as taxable in whole or in part for county, city and county, municipal and district revenue, and may provide that any tax shall be in lieu of any or all other taxes or licenses, or both. The Legislature shall provide for the administration of such laws by a State Tax Commission, subject to the limitations contained in sections twelve and thirteen of article eleven of this Constitution.

The following shall not be subjects of taxation: A mortgage, deed of trust, or other obligation by which a debt is secured when land is pledged as security for the payment thereof, together with the moneys represented by such debt, property used for free public libraries or free museums, growing crops,

ization, after the terms for which the present incumbents have been elected shall have expired. And, finally, provision was made for a State Tax Commission. Thus the framers of this amendment came back every time to the two things for which a very clever publicity campaign was being carried on, namely, a free hand for the Legislature in matters of taxation, a State Tax Commission, removed from local control, to

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property used exclusively for public schools, property owned by the United States, this State or any county, city and county, municipal corporation or district in this State, improvements of any character constructed by any county, city and county or municipality, other property specified in this Constitution as exempt from taxation; Provided, that land and improvements thereon located outside of the county, city and county or municipality owning the same that were subject to taxation at the time of its acquisition by such county, city and county or municipality, shall be a subject of taxation. All lands or improvements thereon, belonging to any county, city and county, or municipal corporation, not exempt from taxation, shall be assessed within the county, city and county, or municipal corporation in which said lands or improvements are located, and said assessment shall be subject to review, equalization and adjustment by the State Tax Commission, after such duties have ceased to be exercised by the State Board of Equalization.

The Legislature may provide, except in the case of credits secured by mortgage or deed of trust, for a deduction from credits of debts due bona fide residents of this State.

The adoption of this section shall not affect nor release any assessment or tax levy heretofore made nor the collection thereof, and all laws relating to the assessment, levy and collection of taxes in force at the time of adoption this section shall remain in full force until changed by the Legislature.

Second—Section nine of article thirteen of said Constitution is hereby amended to read as follows:

Sec. 9. The State Board of Equalization, as constituted at the time this amendment shall take effect, shall continue in existence and the present members of said Board shall continue in office until the first Monday in January, nineteen hundred nineteen, at which time said terms of office shall expire and said Board cease to exist. All powers and duties conferred upon said Board either by law or by this Constitution shall continue until said first Monday in January, nineteen hundred nineteen, unless sooner changed by the Legislature.

Third—Section ten of article thirteen of the Constitution is hereby repealed.

Fourth—Section fourteen of article thirteen of the Constitution is hereby repealed; provided, however, that the repeal of this section shall not affect or release any assessment or tax levy heretofore made under authority of said section and all laws heretofore enacted by the Legislature to carry said section into effect and in force at the time of the adoption of this repeal shall remain in full force until changed by the Legislature.

administer the revenue laws of the State and its political subdivisions.

The measure was made subject of several hearings before the committees on Revenue and Taxation. The public-service corporations and other large tax-paying interests were well represented at all these meetings, but for the most part their agents contented themselves with watching the proceedings without committing themselves.

Curiously enough, the active opposition to the amendment was not based upon the questionable policy of conferring upon the Legislature the responsibilities which it provided, nor upon the objections that can be made to conferring extraordinary powers of assessing and tax levying upon a central body. The attack was made upon the provision which did away with the State Board of Equalization. This provision stirred the members of that board and their associates to great activity. Somebody's job was in danger. There was a rallying to the support of that job. The revenues of the State might drift into even more complete tangle, a system of assessing and tax levying might be foisted upon the State which would give the large taxpayer even greater advantage over the small taxpayer than he now has. But these considerations sank into insignificance in comparison with the importance of the threatened jobs. On the basis of the jobs, the issue was fought out. There were, of course, members who opposed the amendment because they questioned the policy of its more important provisions. But the point most strongly urged against it,

especially in the Assembly, was its effect upon those who would lose their positions.

Twenty-seven votes in the Senate were required to submit the amendment to the electors. It received twenty-eight.[48]

Fifty-four Assembly votes were required. Thus twenty-seven adverse votes were sufficient for its defeat in the Lower House. Before it came to vote in the Assembly, the general impression was that the opposition had that number pledged against it. But when the roll was called, fifty-four members voted in the affirmative.[49]

Among those who voted against it, were Downing and Spengler, the Socialist members. The statement which each had published in the journal in explanation of their vote set forth clearly the objection which members not concerned with the fate of the State

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48 The vote by which Senate Constitutional Amendment 38 passed the Senate was:

For the Amendment—Anderson, Beban, Benedict, Birdsall, Brown, Butler, Campbell, Carr, Chandler, Cogswell, Cohn, Crowley, Finn, Flaherty, Flint, Gerdes, Irwin, Kehoe, King, Luce, Lyon, Maddux, Mott, Scott, Slater, Thompson, Tyrrell, and Wolfe—28.

Against the Amendment—Ballard, Duncan, Purkitt, and Stuckenbruck—4.

49 The vote by which Senate Constitutional Amendment 38 passed the Assembly was:

For the Amendment—Anderson, Arnerich, Avey, Beck, Boude, Brown, Henry Ward; Browne, M. B.; Byrnes, Canepa, Chenoweth, Collins, Conard, Dennett, Edwards, L.; Edwards, R. G.; Ellis, Encell, Ferguson, Fish, Gebhart, Gelder, Godsil, Harris, Hayes, D. R.; Hayes, J. J.; Johnson, Judson, Kennedy, Kramer, Manning, Marron, McDonald, J. J.; McDonald, W. A.; McKnight, McPherson, Meek, Mouser, Pettis, Phelps, Prendergast, Rigdon, Ryan, Satterwhite, Scott, F. C.; Sharkey, Shartel, Sisson, Tabler, Widenmann, Wills, Wishard, Wright, H. W.; Wright, T. M., and Mr. Speaker—54.

Against the Amendment—Ashley, Bartlett, Benton, Boyce, Bruck, Cary, Chamberlin, Downing, Hawson, Kerr, Long, Lostutter, Lyon, McCray, Phillips, Quinn, Ream, Rodgers, Salisbury, Schmitt, Scott, C. E.; Scott, L. D., and Spengler—23.

Board of Equalization incumbents and employees, had to the amendment.

"I voted 'No' on State Constitutional Amendment 38," said each, "because a bill is pending supported by the administration, to create a commission to investigate revenue and taxation, and this bill, carrying an appropriation of $75,000, will undoubtedly become a law. I think it wise statesmanship to wait for the report of this commission before taking any steps to establish a new tax system."

CHAPTER VI.

The "Jitney" Bus Issue.

While the Legislature was in session, the inadequacy of the State's taxation system was emphasized by the effect upon State revenues of "jitney" bus competition with the street railroads.

At the time the members of the Legislature had been elected in November, the "jitney" bus had scarcely been heard of outside Southern California. Two months later, when the Legislature was grappling with the State's revenue problem, the "jitney" bus was cutting into the gross earnings of California street-car companies at the estimated rate of $2,500,000[50] a year. As the only tax these companies pay on their operative properties is 5¼ per cent. of their gross receipts for State purposes only, the State on the car companies' estimated loss, would lose in taxes something more than $130,000 a year.

The Legislature had to make this up somehow. The street railroad companies for a considerable part of the session maintained an expensive lobby at Sacramento to convince the members of the Legislature, press and general public that the deficit should be met by taxing the "jitneys."

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50 Figures gathered by the Transportation Committee of the Oakland Chamber of Commerce and Commercial Club Consolidated. Practically the same figures were presented by various representatives of street-car companies before Legislative committees.

It soon became evident, however, that the purpose of the car companies was not so much to raise State revenues, as to tax the "jitney" out of existence. Corporations which, through their agents, had argued before legislative committees that the power to tax is the power to destroy, and that the courts would never permit the levy of an inequitable tax upon corporations, urged, when it came to consideration of the "jitney," a tax which would not only have been inequitable but confiscatory. Then, too, in one breath the street-car lobbyists insisted that the "jitney" bus could not be operated at a profit. In the next, they contended that a heavy State tax should be put upon it.

The first hearing on this entirely new issue, in the closing days of the first part of the session, came before a joint meeting of Assembly and Senate Committees on Revenue and Taxation.

The advantage of the corporation lobby over any possible lobby [51] which the citizenry of the State can maintain at the capital, was brought out at this hearing.

The "jitney" bus people were of course greatly interested. So were the street-car companies. Immediately the meeting was announced, the lookout lobbyist maintained by the corporations, notified the various companies. This enabled the companies to have their best men at the hearing, all armed with statistics and arguments to support their contentions against the "jitney" bus.

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51 For development of the "new" Lobby at Sacramento see "Story of the California Legislature of 1909," Chapters XXI and XXII, on lobby of old "machine" days; and "Story of the California Legislature of 1913," Chapter VIII, for the lobby that has developed since the new order came in California.

On the other hand, the "jitney" bus people had no means of knowing of the proposed meeting except through obscure items in the newspapers.

The representative of the San Francisco "jitney" drivers who appeared at the hearing, learned of the meeting only twenty minutes before the Sacramento train left San Francisco. He caught the train, arriving at the capitol while the committees were in session, and the hearing half over. Southern California "jitney" bus men had no opportunity to send representatives. They accordingly wired a Los Angeles bus man, who happened to be at the capital on private business, to act for them.

The hearing was one of the most extraordinary ever held before a California legislative committee.

The agents for the street-railroad companies argued that the interests of the State are now interwoven with the street-car lines; that these lines pay a considerable portion of the State taxes. These taxes are computed upon the companies' gross receipts. To reduce these receipts, the car-men continued, is to reduce the taxes the companies pay the State. The "jitney" buses reduce the incomes of the street-car companies, thereby reducing the amount of taxes the companies pay the State. Therefore, the State's interests in common with those of the car companies, require that the "jitney" bus be discouraged.

Manager Black of the San Francisco United Railroads had it figured out that for every five-seated Ford doing a "jitney" business, the State loses $119 a year in taxes. Paul Shoup, representing electric-car com-

panies, intimated that were the "jitneys" to be taxed properly, there would not be so much competition with "legitimate" street-car business. A representative of San Diego companies read an argument asking for "protection" of investments in street-car lines. He held that "jitneys" should not be permitted to run on streets served by street railroads.

"If you fail," he said impressively, "to take care of capital invested here, you cannot expect new capital to come in."

All the car-company representatives insisted that the "jitney" by displacing conductors and motormen works great injury to labor. They even expressed concern lest the "jitney" bus drive the street-car lines out of business, and then go out of business themselves, leaving the public without any street transportation at all. They demonstrated by an impressive array of figures that the "jitney" bus cannot be made to pay, but insisting always that it should be heavily taxed.

The representatives who appeared for the "jitney" bus people came to Sacramento unprepared. They were new to the ways of the Legislature. But they had more convincing argument than the high-salaried army of corporation representatives who filled one end of the Senate chamber.

The defenders of the "jitney" bus stated that the corporations need not concern themselves about the "jitney" bus proprietors losing money—that was for the "jitney" bus proprietors to look out for. As for labor being driven out of employment, it was shown that where two street-car men lose their jobs because

of the "jitneys," ten or more are given employment through the "jitney" traffic. As for the capital to be protected, it was shown conclusively that the capital invested in the "jitneys" is California capital—and not "watered." The "jitney" men intimated very strongly that when it comes to the protection of capital, charity begins at home.

But it was on the item of taxation that the "jitney" bus defenders made their strongest point.

The very highest tax the car companies could be shown to be paying was $1.21 on the $100 valuation. As for the "jitneys," their local tax at San Francisco, with other local licenses and charges, totals something more than $2.00 on each $100. In addition, they were paying various charges for State purposes to the amount on the basis of the cost of the average car used, of $1.50 on the $100. Thus, in addition to a large local tax, which their chief competitor, the United Railroads, is not required to pay, the San Francisco "jitney" bus people showed they were paying on the ad valorem basis—the basis which in dealing with the State on the subject of taxation the corporations insist upon—a far greater proportionate State tax than the United Railroads was paying. The same holds true of the relative tax paid by street-car companies and "jitney" bus proprietors throughout the State.

More was brought out at the hearing than the tax payments of "jitney" owners and street railroads. The point that impressed those who for the first time had opportunity to hear both sides, was that a new era in street-car transportation had opened, an era as im-

portant as that which marked the change from horse-cars to cables, and later, the change from cables to trolleys.

The street-railroad people had contended that after the street railroads were driven out, the "jitneys" would be unable to accommodate the traffic.

Kehoe asked one of the "jitney" bus representatives the answer to this.

"I feel sorry for the car people," came the instant reply. "They apparently fail to appreciate that the sudden popularity of the auto-bus marks an important turning point in street transportation. The buses now used will, of course, soon pass. They are employed only to meet an emergency. They are not adapted to the work. In ten months practically all the buses now used as 'jitneys' will be on the scrap heap.

"But auto manufacturers recognize the new demand. Even now they are considering plans for an auto-bus adapted to street transportation. Within six months practical cars, carrying from ten to fifteen passengers, will be employed. Their coming will mark the passing of the present track system of street transportation."

All, including apparently the street-car men themselves, felt the force of the statement.

To meet the "jitney" situation, two bills were introduced. The first of these (Senate Bill 814, Cogswell) was a skeleton measure, providing for a tax on "jitneys," but leaving the rates to be charged blank to be filled in later.

The second (Assembly Bill 1530, Conard) was a regulatory measure.

The Cogswell bill was introduced in January, but it was not given definite form until April 22, when it was whipped into shape by amendment. The most important of the amendments adopted put a State tax upon "jitney" buses of $12.50 a year for each seat exclusive of that used by the driver. This meant a tax of $50 a year on the smallest of the cars used, and $12.50 more for each additional seat of the larger cars. The most suggestive of the amendments confined the terms of the bill to "jitney" buses. The original bill included all vehicles propelled by any power other than muscular and not confined in their operation to a fixed track. This meant "taxis," sightseeing cars, and the like. But as "taxis" and sightseeing cars do not compete with street-car lines, the railroad lobby was willing that they should be excluded from the terms of the bill.

The "jitney" bus people sent H. W. MacMeans and W. R. Covington to Sacramento to represent them.

Instead of opposing the bill on the ground that it was a bad bill, MacMeans and Covington undertook to compromise with the railroad representatives. The "jitney" people wanted all motor vehicles taxed on the same basis as "jitneys." The railroad people graciously conceded this point. So the bill was again amended to include "any automobile or motor bus engaged in the business of carrying passengers for hire." This most sweeping provision included even funeral buses. The bill was further amended to reduce the tax per seat from $12.50 a seat to $7.

In this compromise form the measure passed both Houses. In the Senate, not a vote was cast against

it.[52] In the Assembly it was passed by a vote of 41 to 16.[53]

And after Governor Johnson had heard the arguments for and against the "jitney" bus tax bill, had listened to the story of the measure's numerous amendments, and been told of the conferences between the railroad lobbyists and the "jitney" lobbyists, he vetoed it.[54]

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52 The vote by which Senate Bill 814 passed the Senate was:
For the bill—Senators Anderson, Ballard, Beban, Benedict, Benson, Birdsall, Breed, Butler, Carr, Chandler, Cogswell, Cohn, Crowley, Duncan, Flaherty, Flint, Gerdes, Jones, Kehoe, King, Luce, Maddux, Mott, Rush, Scott, Shearer, Slater, Strobridge, Stuckenbruck, Tyrrell, and Wolfe—31.
Against the bill—None.

53 The vote by which Senate Bill 814 passed the Assembly was:

For the bill—Assemblymen Bartlett, Boyce, Browne, M. B.; Cary, Chamberlin, Conard, Edwards, L.; Edwards, R. G.; Ellis, Fish, Gebhart, Godsil, Hawson, Hayes, D. R.; Hayes, J. J.; Johnson, Judson, Kerr, Kramer, Long, Lostutter, Lyon, McDonald, W. A.; McKnight, McPherson, Meek, Mouser, Phelps, Phillips, Ryan, Satterwhite, Schmitt, Scott, F. C.; Sharkey, Shartel, Sisson, Tabler, Widenmann, Wills, Wright, H. W., and Wright, T. M.—41.
Against the bill—Assemblymen Anderson, Ashley, Beck, Brown, H. W.; Burke, Byrnes, Canepa, Downing, Ferguson, Gelder, Harris, Manning, McDonald, J. J.; Rigdon, Scott, L. D., and Spengler—16.
Burke entered a statement in the Journal that he had voted for this bill, and that the record showing him to have voted against it was erroneous.

54 At the hearing before the Governor were John A. Britton of the Pacific Gas and Electric Company; Sam Haskins, Los Angeles Electric; Paul Shoup, Pacific Electric; G. K. Weeks, Key Route; M. V. Hill, Southern California lines; James M. Oliver, Southern Pacific; Charles N. Black, United Railroads. These all urged Governor Johnson to sign the bill. The most convincing argument was, however, made by a woman, the wife of a "jitney" bus owner, a Mrs. C. A. Gray of Sacramento. She spoke against the bill:

"Governor," she began, "we are before you, asking for the right to live. We want the right to earn our bread. Your action on these bills means our livelihood.
"My husband runs a 'jitney.' He brings home from $3.50 to $7 a day. To earn this money—and out of it must come the expense of operating—he works from twelve to sixteen hours a day.
"We have averaged since operating our jitney just $4.00 a day. That is barely a living.
"Who wants this taxation? The public does not want it. I do not see representatives of The People here asking you to

The Conard bill to regulate "jitney" buses was introduced during the second part of the session.

The measure provided that before any person could operate a "jitney" bus he must obtain a franchise on much the same basis as he would get a franchise to operate a street railroad. The act provided further that at the time of opening bids for such franchise "any responsible person or corporation, present or represented, may bid for said franchise or privilege a sum not less than 10 per cent. above the highest sealed responsible bidder; and said bidder may be raised not less than 10 per cent. by any other responsible bidder, and said bidding may be so continued until finally said franchise shall be struck off, sold and awarded . . . to the highest bidder."

Under that section it was not at all difficult to see that no man of moderate means would be able to secure a "franchise" to operate a "jitney" bus.

The measure went to the Assembly Committee on Public Utilities. And there it stayed for nearly a month, in spite of the efforts of the corporation lobbyists. The committee finally shifted its responsibility, by referring the measure to the State Railroad Com-

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sign these bills. All those who are for the bills represent the powerful railroads.

"The fact is, the public wants the 'jitneys' to run. When they do not, then the 'jitneys' will stop running. We want a chance to make a living, and ask you that you refuse to kill us off.

"Is there any one here from The People? If there be, I'd like to have him stand up.

"The 'jitney' men are afraid to come here. We sent out a call for them to come, and, as you see, Governor, my husband and myself are the only ones who came from this city. They are afraid to come."

mission for an opinion. The Commission replied that [55] the local authorities ought to have the power to control the "jitney" bus business.

The proponents of the bill urged that the Commission had endorsed it. This may well be questioned. However, the committee finally reported the bill back to the Assembly with the recommendation that it be passed.

On the floor of the Assembly, the measure met with spirited opposition. But it soon developed that its supporters had enough votes to put it through. The roll-call showed forty-three for the bill and twenty-six against.[56] Assemblyman Downing changed his vote

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55 The Railroad Commission's letter was addressed to W. A. Avey, chairman of the Assembly Committee on Public Utilities, and read as follows:

"We desire to acknowledge receipt of letter dated the 14th inst., signed by yourself and other members of the Committee on Public Utilities of the Assembly and approved by Mr. Grant Conard, author of the bill, asking this Commission's consideration and advice as to what action your Committee should take with reference to Assembly Bill No. 1530.

"This is a bill to provide for the grant of franchises by local authorities to persons, firms or corporations operating motor vehicles or automobiles carrying passengers for hire upon the public streets or highways of any county, city and county, city or town in this State. We assume the bill has for its object the grant of power to the local authorities to regulate and supervise, through the franchise power, the operations of the so-called 'jitney' buses.

"We are of the opinion that the local authorities ought to have the power, in the interest of the general public, to control the 'jitney' bus business and know of no better way to accomplish this result than by giving to the local authorities the power to grant franchises with such conditions as may seem proper, without which franchises 'jitney' buses cannot operate.

"We assume that if any objections exist as to the details of this bill, as distinguished from its general purpose, such objections will be drawn to the attention of your Committee by the 'jitney' bus proprietors, if a public hearing is held. Without passing upon the details of the bill, we desire to express to you our view that the general purpose of the bill is commendable and that the local authorities ought to have the general powers which the bill undertakes to confer."

56 The vote by which the Jitney-bus Regulation bill passed the Assembly was as follows:

For the bill—Avey, Bartlett, Beck, Benton, Boyce, Browne,

from no to aye, and held the measure up under a motion to reconsider.

When the bill came up the next day on Downing's motion to reconsider,[57] it was sent back to the Public Utilities Committee. The committee finally decided upon amendments, the most important of which eliminated the provision for bidding up on franchises after the bids had been opened. The bill was then sent back to the Assembly.

On the floor of the Assembly an attempt was made to amend the measure so that a license should be required for operating "jitney" buses instead of a franchise. But this was voted down. The Assembly by a vote of 41 to 33[58] then passed the bill for the second time.

M. B.; Bruck, Burke, Cary, Chamberlin, Chenoweth, Conard, Dennett, Edwards, R. G.; Fish, Gebhart, Hawson, Hayes, D. R.; Johnson, Judson, Kerr, Long, Lyon, Manning, McCray, McKnight, McPherson, Meek, Pettis, Phillips, Prendergast, Quinn, Ream, Rodgers, Rominger, Schmitt, Scott, C. E.; Sisson, Tabler, Widenmann, Wright, H. W.; Wright, T. M., and Young—43.

Against the bill—Anderson, Boude, Brown, Henry Ward; Byrnes, Canepa, Collins, Downing, Ellis, Ferguson, Gelder, Godsil, Harris, Hayes, J. J.; Kennedy, Kramer, Lostutter, McDonald, J. J.; McDonald, W. A.; Mouser, Phelps, Rigdon, Ryan, Salisbury, Scott, L. D.; Sharkey, and Spengler—26.

[57] The vote for reconsideration of the "jitney" bus bill was:

For reconsideration—Anderson, Ashley, Avey, Bartlett, Beck, Boude, Brown, Henry Ward; Browne, M. B.; Bruck, Byrnes, Canepa, Collins, Downing, Ellis, Ferguson, Gebhart, Gelder, Godsil, Harris, Hayes, J. J.; Kennedy, Kramer, Long, Manning, McDonald, J. J.; McDonald, W. A.; Meek, Mouser, Pettis, Phelps, Quinn, Rigdon, Ryan, Scott, F. C.; Scott, L. D.; Sharkey, Shartel, Sisson, Spengler, Widenmann, Wills, Wishard, and Young—43.

Against reconsideration—Anerich, Benton, Burke, Cary, Chamberlin, Conard, Dennett, Edwards, R. G.; Fish, Hawson, Hayes, D. R.; Kerr, McPherson, Phillips, Rodgers, Rominger, Schmitt, Wright, H. W., and Wright, T. M.—19.

[58] The vote by which the "jitney" bus bill passed the Assembly for the second time was:

For the bill—Arnerich, Bartlett, Beck, Benton, Boyce, Bruck, Burke, Cary, Chamberlin, Conard, Dennett, Edwards, L.; Edwards, R. G.; Encell, Fish, Gebhart, Hawson, Hayes, D. R.; Johnson, Judson, Kerr, Long, Lyon, Manning, McKnight, McPherson, Meek,

In the rush of the closing days of the session, the bill went through the Senate without a vote against it.

As in the case of the "Jitney" Tax bill (Senate bill 814), Governor Johnson refused to sign this measure, and it did not become a law.

Mouser, Pettis, Phillips, Prendergast, Rodgers, Rominger, Ryan, Schmitt, Scott, C. E.; Shartel, Wishard, Wright, H. W.; Wright, T. M., and Young—41.

Against the bill—Anderson, Ashley, Boude, Brown, Henry Ward; Browne, M. B.; Byrnes, Collins, Downing, Ellis, Ferguson, Gelder, Godsil, Harris, Hayes, J. J.; Kennedy, Kramer, Lostutter, McCray, McDonald, J. J.; McDonald, W. A.; Phelps, Quinn, Rigdon, Salisbury, Satterwhite, Scott, F. C.; Scott, L. D.; Sharkey, Sisson, Spengler, Tabler, Widenmann, and Wills—33.

CHAPTER VII.

The Grant-Wolfe Recall Contest.

The Grant-Wolfe Recall contest, which attracted attention not only throughout the State but in all parts of the country where the test of the Recall in California was under observation, came up in the Senate during the first part of the session.[59]

This contest had resulted from a movement started against State Senator E. E. Grant soon after the 1913 Legislature had adjourned.

Grant had been elected from the Nineteenth Senatorial District at San Francisco. He had at the 1912 election defeated State Senator "Eddie" Wolfe.

Wolfe had for many years been a leader of the so-called "organization" or "machine" group in the Senate.[60] His effective opposition to Anti-Race Track Gambling legislation had, in particular, given him a reputation throughout the State.

As early as 1908, the California Anti-Race Track League, organized to combat the gambling evils at the tracks, opposed Wolfe's re-election because of his

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59 For the California plan of a divided session, see the "Story of the California Legislature of 1913," Chapter VII.

60 For Wolfe's record in the State Senate see Journals of the California State Senate, Sessions 1897-1911 inclusive; and Stories of the California Legislature 1909 and 1911. For his record on direct primary legislation see files San Francisco Call, February, 1909; on Railroad Regulation, "Story of the California Legislature 1909," Chapters XII, XIII, XIV; on Racetrack Gambling, Chapters VI, VII, "Story of the California Legislature 1909," and Chapter XIV, "Story of the California Legislature of 1911."

record on the 1907 anti-gambling measure. But the campaign against Wolfe that year failed. He was re-elected. He was, however, four years later defeated by Mr. Grant.

In the Senate of 1913, Grant took an aggressive stand against vice conditions. His most notable work was the introduction and effective support of the so-called Redlight Abatement act.[61]

This measure provides the machinery by which the citizen may proceed against the owner of a house of prostitution, and close the building as a nuisance.

While the bill was pending, Grant was warned that its passage would array against him elements that would eventually ruin him politically. One of his stanchest supporters in the 1912 campaign told him he must accept amendments to the Abatement act which would render the measure ineffective. This, Grant refused to do. The bill, with Grant's active support, passed both Houses; went to the Governor; was signed by him, and, after being held up for nearly two years by means of a referendum petition containing hundreds of forged signatures,[62] was finally ratified by The People at the polls.

The 1913 Legislature adjourned on May 12. Within two weeks, the subject of Grant's recall was being discussed in the newspapers. Few took the movement seriously. To recall a member of the Legislature for

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61 See "Story of the California Legislature of 1913," pages 320-344, inclusive.

62 Theodore Kytka, the handwriting expert, who examined the Referendum petition under which this bill was held up, states that had all the forged signatures been eliminated, not enough valid signatures would have remained on the petition to invoke the Referendum against the act.

having opposed vice conditions did not seem possible of accomplishment even in San Francisco. Publications opposed to vice interests expressed conviction that no Recall petition would ever be circulated against Grant, but that if such a Recall were attempted, the reflection would be upon San Francisco and not upon Grant.[63]

This position was taken not only by publications which were advocating the policies for which Grant had contended, and which had supported his candidacy, but by the San Francisco Morning Call, which, at the 1912 election, had been the principal newspaper to support Wolfe in opposition to Grant.

"Every few weeks," said the Call in its issue of August 21, 1913, "the public is informed that the movement for the recall of State Senator Grant has been revived and is to be prosecuted with vigor. It were better for San Francisco if there were no more such announcements—if the proposed recall of Grant

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63 "It is rumored," said the California Issue for June 1913, "that the pro-liquor forces and the friends of commercialized vice are circulating petitions in San Francisco for the recall of Senator Grant, who introduced the Redlight Injunction and Abatement bill in the Senate. We can hardly believe that they will commit such folly. So far as the Senator, himself, is concerned, nothing better could happen. If the effort to recall him were successful he would be hailed the Nation over—yes, over much of the civilized world—as a martyr to San Francisco's shame. If the effort failed, Senator Grant would have gotten some very desirable advertising, and would go back to the Senate with added prestige.

"But what about San Francisco's reputation? The very effort to recall a representative because he stood for decency would blacken the city's name as nothing else has ever done. That any body of citizens should commit such folly just now, when all eyes are upon our city, and when we are inviting the world to be our guests, hardly seems possible. Not until we see a copy of the petition will we be convinced that it is in circulation and, not until the signed petition is filed with the proper official, will we believe that any large number of our citizens are so wanting in both common sense and common decency."

could be forgotten. It is admitted that the moving cause of the proposed recall of Grant is to be found in his activities in connection with the enactment of the so-called Redlight Abatement act."

The Call, after alleging that "The election of Grant has reflected small credit upon San Francisco," and that "his recall would reflect even less," stated that:

"It is difficult to believe that a decent man could be induced to accept a Recall nomination in opposition to Grant. Almost every decent man has a wife or a mother, a sister or children. The man who opposes Grant cannot escape the charge that he is the candidate of the vice masters, the prostitutes and the dive keepers. The man who cares for his good name, for the happiness of his family, will be slow to accept the consequences of such a candidacy."

Nevertheless, a petition for Senator Grant's recall was duly circulated. The expressed objections to Grant's course in the Legislature, as given publicity in the newspapers, were that he had actively advocated the passage of the Redlight Abatement measure; that he had voted for Prohibition, and wanted to make the Panama-Pacific Exposition "dry"; that he had refused to work on Sunday with his colleagues in concluding the work of the Legislature.[64] Senator Tom Finn of San Francisco, in a statement made before the Senate, March 10, 1915, gave another reason for Grant's recall. Finn stated that Grant was

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64 These objections to Senator Grant's course as a legislator will be found set forth in the San Francisco Examiner for September 11, 1913, under the heading, "Petitions to Recall Grant are Burned."

opposed to boxing (Grant had supported the Anti-Prize Fight bill), and that that was the cause of the campaign against him.

But the recall petition circulated against Grant made no reference to the Redlight Abatement bill, nor to his refusal to work on Sunday, nor to the Anti-Prize Fight bill. There were three reasons given for his recall. They were:[65]

(1) That at the 1913 session he had voted for Senate bill 384. This measure, had it been enacted, would have prevented the sale, giving away, etc., of intoxicating liquors at the Panama-Pacific Exposition,

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65 The Recall petition against Senator Grant was in full as follows:

"We, the undersigned, Electors of the Nineteenth Senatorial District in said State of California, qualified to vote at the recall election hereinafter mentioned, demand an election of a successor to Edwin E. Grant, as a member of the Senate of the State of California from said Nineteenth Senatorial District in accordance with the provisions of Article XXIII of the Constitution of the State of California, and the laws of said State.

"The removal of Edwin E. Grant from said office is sought by us on the ground, to-wit:

"That as a member of the California Legislature since January 6th, 1913, he has voted against the wishes of his constituents. That on April 17th, 1913, he voted for Senate Bill 384, known as the "dry fair bill," which, if passed, would prevent the sale of all liquors, including our famous native wines, excepting that wines or liquors could be served with bona fide meals in restaurants and cafes of one hundred chairs and hotels of two hundred rooms, which would discriminate against the small restaurant, cafe and hotel man. Had such bill passed we believe it would have caused our World's Fair a financial failure. As stated by President C. C. Moore, of the Fair, no doubt it would cause the withdrawal of a number of foreign exhibits and concessions.

"That on April 14th, 1913, he voted against Senate Bill No. 534. This bill provides that no marriage could be solemnized until at least five days after issuance of license unless in an extraordinary or emergency case. When death is imminent, a certificate signed by a judge or physician will allow an immediate marriage. Said bill, if passed, would stop elopements, hasty and secret marriages and elevate the standard of society.

"That on April 9th, 1913, he voted against Senate Bill No. 1007. This bill provided that school books compiled, printed and published in California, when equally as good and at the same or less cost, shall be used to the exclusion of all others. This bill is in the interest of Home Industry. Senator Grant should have voted for this bill."

or within 150 feet of its grounds, except in hotels of 200 rooms or more, and in restaurants with accommodations for 100 or more guests. Nor did the measure prevent the giving away of samples of liquors at the several exhibits, provided such samples were not to be drunk upon the premises where they were given. The aim of the measure, and about all that would have been accomplished under it, was to keep saloons out of the Exposition grounds, and 150 feet away from its boundaries.

(2) That he had voted against Senate Bill 534 which provided, with certain exceptions, that no marriage should be solemnized until at least five days after issuance of the license.

(3) That he had voted against Senate Bill 1007. This measure gave California authors and publishers preference over authors and publishers of other States in the preparation and publication of school books.

Such were the reasons advanced for the removal of Senator Grant from office. The press of the State denounced them as subterfuges.

"The constituents of Senator Grant," said the Fresno Republican, "who are starting this recall petition, do not know nor care whether the schoolbook bill and the marriage bill were good or bad, and they do not regard a difference of opinion, if they had one, on these bills as important enough to justify a recall petition. They do think that Senator Grant has certain constituents who would object to his voting for any temperance measure, and they frankly avow this objection, which is, from their viewpoint, a real one.

But their actual objection is that Senator Grant introduced in the Senate the Redlight Abatement act, and that he voted in general on the side of decency and morality in the Legislature. They do not dare openly avow this objection, but if the petition should be signed by sufficient numbers to produce a recall election this would be the argument privately made."

"A recall petition," concluded the Republican, "against such a man on such grounds is an insult to his constituents, since it charges them with being persons who regard aggressive decency as a disqualification for office, and it is an offense to the State of California, which has been tried to the limit of endurance to be patient with San Francisco's imposition of legislative delegations on it, and whose impatience might pass that limit if a San Francisco constituency should recall a Senator on the mere ground that he was too decent for them."

Later on, as those seeking Grant's recall became more active, the Republican denounced the movement as "the most cynical insult to the moral standards of the people of San Francisco which has appeared in the course of recent politics."

Those publications which had opposed the Recall when it was before the Legislature, and later, when it was before the electors at State-wide election, cited the movement against Grant as justifying their opposition.

"The petition," said the San Francisco Chronicle, "does not allege Senator Grant to have been guilty of any violation of the moral, penal, civil or political code.

It is asked that he be fired because he voted 'against the wishes of his constituents' on the 'dry fair bill,' the five-day marriage bill and some schoolbook bill.

"As there were in the neighborhood of 4000 bills before the freak Legislature, of which, say, 2000 probably came to a vote in the Senate, it may be assumed that Senator Grant voted in accordance with 'the wishes of his constituents' on 1997 bills more or less, but should be recalled because he guessed wrong three times. . . .

"The Chronicle submits that a law under which such a performance is possible is an atrocity." [66]

But in spite of the general denouncement of the recall movement against Senator Grant, the circulation of petitions against him continued. In Grant's district 2334 signatures were required to invoke the Recall. Early in September, Grant's opponents claimed to have over 3000 signatures.

But about that time the forgeries of the Redlight Abatement and other Referendum petitions were exposed. For a period a number of prominent charac-

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[66] The San Bernardino Sun took the same position as did The Chronicle. Said the Sun:

"Every development that comes to the surface justifies The Sun's platform plank to the effect that the recall is a worthless political device, because it is misused five times for once that it is used properly. Anything that does more harm than good is condemned out of hand and by the common judgment of men. A recall has now been launched against the San Francisco State Senator who stood sponsor for the 'Redlight Abatement' measure, and because he sponsored it. The children of this world are in their generation wiser than the children of light, and they know how to use the recall four times and make it work, where it is used once for a decent cause or an honest purpose. We do not know Senator Grant, but if the worst thing in his record is his championship of the measure that makes the property owner responsible for the blood money he collects, to apply the recall to the Senator damns that particular political invention to a hell as deep as that reserved for the procurer of smug wealth that knowingly shares the spoils."

ters of the San Francisco underworld seemed headed for the penitentiary.[67] And the Grant Recall petition was mysteriously burned.

A second Recall petition was then circulated against Grant. This petition was finally filed with the San Francisco officials. It was found to contain many forged and irregular signatures. So patent were the forgeries, that the San Francisco Grand Jury was prevailed upon to take action. Indictments were voted against two of those alleged to be guilty of frauds in connection with the circulation of this second petition. The necessary documents for indictment were drawn up in the office of the District Attorney. But the indictments were never brought. Something—one of those mysterious occurrences of San Francisco underworld politics—had occurred. Nor has there been any effective effort on the part of San Francisco authorities, nor by the State Attorney General's office, to bring those responsible for the frauds in connection with the second recall petition against Grant to account.[68]

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67 Of these forged Referendum petitions the San Francisco Chronicle said: "There is a disposition upon the part of the District Attorney and the police not to prosecute the small-fry forgers who have confessed their complicity in the plot, but to use them as witnesses against the men who financed and managed the petition-signing campaign. It is believed that there is not a single one of the more than forty separate petitions that were circulated in San Francisco which does not fairly reek with forgeries.

"Many of these forgeries, it is said, were committed by the men who circulated the petitions, their purpose being to increase their pay, their remuneration being based upon the number of signatures which they secured to the petitions.

"But the real forgery plot was conceived and executed in the offices of the association which was fighting the Redlight Abatement law, and in the execution of the plot several men innocently circulating the petitions deliberately were made the scapegoats of the criminal conspiracy."

68 The San Francisco Bulletin (issue of July 10, 1914) states that of a total of 2,700 names on this second petition 1,400 were forged or otherwise disqualified names.

A third recall petition against Grant was then circulated. This third petition was eventually filed with the San Francisco authorities. The Registrar of voters at San Francisco rejected more than 1000 of the signatures, but certified that 2592 were valid. This was 258 more valid signatures than the 2334 required to invoke the Recall.

Grant, after examining the petition, was convinced that a number of names which had been certified as valid were irregularly if not fraudulently signed. The Registrar at San Francisco had twenty days from the filing of the petition before he was required to certify to its sufficiency to the Secretary of State. Senator Grant, through his attorney, Mr. Milton T. U'Ren,[69] asked of the Registrar that he take the full

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69 After making his arrangements with Registrar Zemansky over the telephone, Mr. U'Ren wrote the Registrar as follows:

"July 29, 1914.

"Mr. J. H. Zemansky,
"Old City Hall,
"San Francisco, Cal.

"Dear Sir:

"This is to confirm my conversation over the telephone yesterday.

"I have been retained by Senator Edwin E. Grant as his legal representative in the matter of the recall petition now pending against him. We have information to the effect that many of the signatures to the recall petition are not genuine and that many others were obtained under false pretenses. Senator Grant has instructed me to make a thorough investigation of this petition and if it is found that the law has been violated in any respect, we propose to vigorously prosecute the guilty parties.

"My understanding is that you will take the full 20 days within which to verify the petition. If this be done, it will give me an opportunity to investigate and check up the signatures. I further understand that you will notify me when you have completed the work.

"U'R:ET "Yours, truly, Milton T. U'Ren."

Zemansky's reply was:

"July 30, 1914.

"Mr. Milton T. U'Ren,
"Mills Building,
"San Francisco.

"My Dear Sir:

"We have examined the recall petition of Edwin E. Grant and have found over 20% good names as required by the Constitution. We will take the full twenty (20) days before certifying the same to the Secretary of State.

"Respectfully, J. H. Zemansky, Registrar of Voters."

twenty days, thus giving Grant opportunity to complete his investigations. The Registrar assured Mr. U'Ren that the full twenty days would be taken. Grant continued his investigation.

The citizen who has not come in contact with the checking over of a petition of this sort, cannot appreciate the detail and labor it entails. When such work is undertaken on behalf of an official who is of service to some particular group that may be benefited or injured by legislation—exploiters, for example, of gambling, prostitution, public service—the group pays the cost of it. But Grant was in opposition to such groups. They regarded him as a menace, and to them he was a menace. Deliberately his opponents had undertaken to force him out of office. So far as he could, Grant resisted them, but he had to bear the expense of the fighting. His loss in time and money incident to the long campaign which was carried on against him was large.

In an effort to discover further irregularities in the circulation of the third recall petition, Grant sent communications to a number of those whose names on the petition had been counted. These communications set forth what the petition was, and inquired if the voter addressed had signed such a petition.

The replies were of a character to convince Grant that he was warranted in going ahead with the investigation. Some answered they had not signed such a petition. Others stated they had positively refused to sign it. Others admitted they had signed some

sort of a petition, but on the representation that it was for some other purpose.[70]

While Grant was in the midst of his investigation, and fully a week before the twenty days' time which the Registrar had promised, had expired, the Registrar, without notice to Grant or to Grant's attorney, certified to the sufficiency of the petition to the Secretary of State. On this certification there was nothing else for the Secretary of State to do but make the prescribed representation to the Governor, and the Governor to order a recall election in Grant's district.

Grant sought relief in the courts. But both the Superior Court at San Francisco and the State Supreme Court found that the action of the Registrar

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70 "I positively refused to sign the recall," reads a reply bearing the name of Ellen Palmer, 3012 Pierce street.

"No petition for your (Senator Grant's) recall has been presented to me," reads the reply received from Edward Ingalls, 3140 California street, "and I would not have signed one if it had."

A reply bearing the signature of E. W. Thompson, 2006 Lombard street, says: "According to your statement in circular under reason for recall, I was wrongly informed when I signed the petition. While not a drinking man, I am against statewide prohibition. It cuts off quite a bit of revenue and throws a hardship on taxpayers."

A reply bearing the name of Catherine McKaenna, 3109 Buchanan street, states that she signed the petition "with the understanding it was for a wet town." "I would never," she adds, "have signed it had I read the petition."

A reply bearing the name of Mary F. Osgood, 2314 California street, states that she signed the recall petition under a misrepresentation. "I understood," says this reply, "that you were not in favor of the Redlight Abatement act."

Some of those who signed the petition knowing its purpose, make curious replies.

"I consider Senator Grant," reads a letter bearing the signature of Lester N. Sachs, 1760 Pacific avenue, "a dangerous man to represent any district of a large city and certainly shall do everything in my power to have him thrown out of the Senate." Mr. Sachs then goes on to describe himself as having "absolutely no interest in the liquor traffic." "I am only a fair and broad-minded citizen," modestly runs the letter, "and how any committee of supposedly intelligent women of a large seaport town who have or hope to have daughters, can make a fight in behalf of a man who fathered the Redlight Abatement act is beyond my comprehension."

in such matters is made final by the State Constitution. The courts could do nothing to stay the proceedings. Grant was compelled to meet a recall election.

More than a year had passed since the recall movement against Senator Grant had been started. Few gave credence to the early announcement that Grant's opponent was to be one Einsfeldt, a cigar dealer. There was, however, expressed opinion that the man whom Grant had defeated in 1912, "Eddie" Wolfe, would be his opponent. Indeed, some of those who were circulating petitions against Grant had stated the petition "was to put Wolfe back in the Senate in place of Grant."

When it became evident that the recall election would be held, the San Francisco Daily News, in an editorial article headed "Wolf! Wolf! Wolf!" announced: "It is freely stated that Wolfe is really the man behind the attempted recall of State Senator E. E. Grant. . . . Should Grant be denied an injunction sought in the Superior Court to prevent the recall election set for October 8, it is stated Wolfe will prove to be the recall candidate against him."

And when, a few days later, Wolfe's candidacy was definitely announced, the News complacently commented, "Well, Wolfe was smoked out."

Grant's supporters during the campaign which followed showed the elements which were seeking Grant's recall; dwelt upon the excellence of his record in the Legislature, and showed the effect his removal under such circumstances would have upon San Francisco, and upon the legislators who might in future represent that city.

A statement signed by some of the most prominent men and women of San Francisco set forth that, "The present recall is simply an attack upon him (Grant) by the vice element, and, in our opinion, is not aimed at Senator Grant so much as at all legislators who have not voted in favor of the vice interests. Through the Grant recall, this element is seeking to club our legislators into line—their line." [71]

"Senator Grant's desire to do a social service," said the San Francisco Bulletin, "cannot be questioned and this bill (the Redlight Abatement act) at the very least, had the merit of being aimed, not at the unfortunates who are the victims of the evil, but at the property owners who profit by it without taking any risks or assuming any social stigma. He was aiming at a particularly miserable kind of business, whether he hit it or not. Nobody charges that Grant had any corrupt motives in securing the passage of the bill. If there was any corruption it was in some of the opposition to the bill. The men who are now seeking Grant's recall are really furnishing arguments in his favor, since they show that they believe his bill has hurt their business, and to that extent accomplished its purpose."

"No man," said the Daily News, "with any dis-

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71 This statement was signed by Hon. Horace Davis, William Denman, Mrs. Mary T. Gamage, Philip Bancroft, George C. Boardman, Dr. A. S. Musante, Mrs. J. W. Orr, Alfred Greenebaum, Thomas S. Williams, Michael McBride, Mrs. Michael McBride, Walter Macarthur, Paul Scharrenberg, Rev. Terence Caraher, Mrs. Elizabeth Gerberding, Charles H. Bentley, Louis H. Mooser, Mrs. Orlow Black, Mrs. Philip Bancroft, Charles S. Tripler, Dr. A. H. Giannini, Mrs. Edward F. Glaser, Jesse H. Steinhart, Patrick A. Buckley Will J. French, Miss Marian Adams, Rev. C. N. Lathrop, Miss Florence Musto, Rev. Charles F. Aked, Harry Geballe,

cernment can fail to know why the Tenderloin wants Grant's recall. It is all right when Grant or any other legislator fathers a law which strikes the unfortunate victims of vice. But when he fathers a law like the Redlight Abatement bill which strikes *at the pockets of the rich men who own the vice houses* he at once—in their view—becomes a menace. The Daily News holds no brief for Grant. It offers no opinions as to the value of the Redlight act. It is not even strongly for Grant, personally, as a representative of San Francisco. *But when any public servant whose general reputation is good and whose activities are admittedly honest,* can be menaced by a combination such as is seeking Grant's scalp, it is time for every decent man to wake up and get busy. Grant's record on all important matters before the Legislature is good. In one or two votes The News thinks he was wrong. But they were comparatively trivial and there was room for an honest difference of opinion. If Grant has to face a recall election procured through a petition which is known to reek with forgeries, the decent people of his district should see to it that Grant's attackers are defeated so decisively that they will never forget it."

The San Francisco Examiner on the day before the recall election in an editorial article, headed "A Fight Between Decency and Vileness," stated that "Thursday's election in the Nineteenth Senatorial District presents a simple issue of decent government. In that election the voter is called on to answer the one question, 'Shall Senator Grant be recalled?' and the answer should be an emphatic 'No.'

"There is no concealment of the purpose of the recall movement. There is no charge against Senator Grant. He is to be recalled because he stood sponsor in the late Legislature for the so-called 'Redlight Abatement law'—an act for the suppression of houses of ill-fame. As this reason would not look very convincing in print, the men behind the recall omit it in their statement on the ballot, and put as their reasons for recalling Senator Grant that he voted for legislation against the liquor traffic, and was willing that children should have the privilege of getting school books that were not written by Californians.

"Of course no respectable body of California voters would think for a moment of recalling any official on such grounds. But there is very great danger that most voters will stay away from the polls, and leave the election to be decided by the dive-keepers and their parasites.

"San Francisco cannot afford to have such a splash of mud put on the city's reputation. The decent men and women of the Nineteenth Senatorial District owe it to their city to spare enough time from their private business to go to the polls on Thursday and smash this conspiracy of the city's dregs."

Those opposing Senator Grant met the statement that his record in the Legislature had been excellent, with the charge that he had voted for Prohibition.

Grant had not voted for Prohibition; the Prohibition measure which was, at the time of the recall election, before the State, had not originated in the Legislature at all. It had been put on the ballot by the initiative. But that made no difference to Grant's

opponents. They covered his district with enormous signs reading: "Vote yes to recall Grant. He voted for Prohibition. He voted to make the World's Fair dry. He voted against Home Industry."

One feature of these signs was that they appeared anonymously. The Penal Code makes anonymous posting a misdemeanor.[72] But Grant was as helpless to reach those responsible for the signs, as he was to bring to account those responsible for the forged names on the second recall petition that had been circulated against him.

Senator Wolfe, before the Legislative Committee appointed to consider the Grant-Wolfe case, disclaimed responsibility for these advertisements. Wolfe stated that they had, without his knowledge, been put up by an enthusiastic relative. It developed that this enthusiastic relative and Senator Wolfe were at the time living in the same house.

Nor was the charge that Senator Grant had voted for Prohibition confined to bill-board advertising. Such charges appeared in an advertisement in at least one religious publication.

The Monthly Calendar of St. Dominic's Church, San Francisco, published by the Dominican Fathers, in

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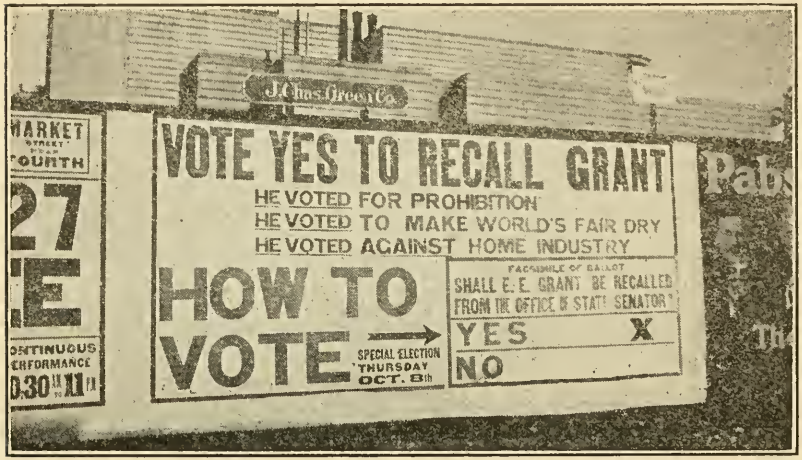
72 Section 62a of the Penal Code provides that "Every person who intentionally writes, prints, posts, or distributes, or causes to be written, printed, posted or distributed, any circular, pamphlet, letter or poster which is designed or intended to injure or defeat any candidate for nomination or election to any public office by reflecting upon his personal character or political action, unless there appears upon such circular, pamphlet, letter, or poster, in a conspicuous place, either the name of the chairman and secretary, or the names of two officers at least of the political or other organization issuing the same, or the name and residence, with the street and number thereof, if any, of some voter of this State, and responsible therefor, shall be guilty of a misdemeanor."



Bill-board Advertising Used Against Senator Grant and in Favor of Wolfe at the Recall Election

its October, 1914, number, issued a few days before the recall election, contained an advertisement calling upon its readers to recall Senator Grant on the ground that Grant had voted for Prohibition. The advertisement read as follows: "Vote yes to recall Senator Grant. Special election, Thursday, October 8, 1914, 19th Senatorial District. Then stamp X in column for Edward I. Wolfe, to succeed him, tried and true representative of the people. Grant voted for Prohibition at the World's Fair. Grant voted against home industry. Recall Grant!"

When that advertisement was called to the attention of the Dominican Fathers, they disclaimed knowledge of it, repudiated it, and stopped further distribution of the Calendar containing it. Unfortunately, however, large numbers of the Calendar had been put into circulation. The impression had unquestionably been given throughout the parish that the Dominican Fathers had approved such argument.

And why was the untrue statement that Grant had voted for Prohibition so persistently insisted upon? Because Grant's opponents knew the District.

The Nineteenth Senatorial District at the general election held a month after the Grant recall gave a vote of 2084 for Prohibition, to 13,273 against Prohibition. At the same election 4144 voted for the Red-light Abatement bill in this district and 8575 against it. Tarring Grant with Prohibition by means of agencies of publicity ranging from church calendars to billboard posters, had greater effect in the Nineteenth Senatorial District than statements of Grant's excellent legislative record. The Prohibition charge against

VOTE **YES** TO RECALL SENATOR GRANT

Special Election Thursday, October 8, 1914

19th Senatorial District

THEN STAMP X IN COLUMN FOR

EDWARD I. WOLFE

TO SUCCEED HIM

Tried and True Representative of the People

Grant Voted For Prohibition at the World's Fair

Grant Voted Against Home Industry

RECALL GRANT

Advertisement That Appeared in the Monthly Calendar for October, 1914, of St. Dominic's Church, San Francisco

Grant probably had more to do with accomplishing his defeat than all the other arguments used against him combined.

Of the 16,090 voters registered in the Nineteenth Senatorial District, less than 9000, a trifle more than 50 per cent., voted at this recall election. The vote to recall Grant on the face of the returns was, for his recall 4672, against his recall 4141. The margin against him was, on the face of the returns, 531.[73]

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73 The following selections from the principal interior papers of the State will indicate the general attitude on the proceedings against Grant:

Los Angeles Express—"It is a remarkable situation thus presented, one which should cause the decent citizens of San Francisco to do some prompt thinking and acting. The recalling of Grant, under the circumstances, would constitute a disgrace which no senatorial district and no city can afford to have recorded against it."

San Jose Mercury—"It is true that Senator Grant was made to vacate his office by the people for whose protection he became the champion of this Redlight bill, but it is also true that the State is aware of his service to it and of the penalty imposed upon him for his pains. Some day he will be rewarded. Some day his name will stand high on the honor roll of public service. Some day the very people who neglected to rescue him from the clutches of the tenderloin and its powerful influences will elevate him to a position of trust higher than that from which he was unjustly removed. But even that failing, he will still have the consciousness of having done his duty, the satisfaction of seeing the evil he fought abolished. No better reward can come to a man of high purpose."

Oakland Enquirer—"Should Senator Grant be recalled, San Francisco, and incidentally California, will be given much bad advertising. Word would go out over the country that San Francisco had on the eve of the opening of the Panama-Pacific Exposition recalled a State Senator because of his support of the Redlight Abatement act. Such news would be bad news for San Francisco, and bad news for the Exposition. The immediate effect would be that thousands of decent people—the class of people we hope the Exposition will bring to California—would stay at home. The undeserved, but none the less unenviable reputation which the prosecution-immune and triumphant tenderloin would give San Francisco would convince most decent folk that San Francisco is a very good community to stay away from."

Fresno Herald—"The sin of Senator Grant, against whom prostitution has been arrayed to secure his recall, is that he championed the Redlight bill which was overwhelmingly passed by the last Legislature, but against which the referendum has been invoked. Prostitution versus Senator Grant is the issue in the San Francisco senatorial district he represents. Prostitution has chosen to insult the State of California by suggesting

The evidence which Grant had gathered, however, indicated enough irregularities or worse in the circulation of the recall petition to invalidate it. Grant decided to bring the whole matter before the Senate under contest proceedings.

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through a recall the people thereof will kill the Grant Abatement bill. If the Herald mistakes not the resentment of the people will be a thunderous one."

Santa Cruz Evening News—"At this writing the word from San Francisco is that Senator Grant has been recalled by some 500 majority because of his Redlight Abatement bill. That recall settles the hash of the brothel keepers. That Redlight Abatement bill should carry with a whoop next month, and what is more many of us who were not especially interested in its fate will do our best to see that it does carry."

On the other hand, the weekly press at San Francisco—the publications, by the way, which had opposed the Graft Prosecution, and supported the Graft Defense—for the most part supported Wolfe and opposed Grant. The following selections are characteristic of the attitude of these publications:

San Francisco Argonaut—"Now there are a whole lot of us who have no great admiration for machine practice in politics. And, to be entirely candid, there is nothing wonderfully charming or attractive in the personality of 'Eddie' Wolfe. If we were selecting a Senator from the Nineteenth district 'Eddie' Wolfe would not be our first choice. None the less, we went to the polls, some thousands of us, and voted against Grant and for Wolfe. We did it—we say we because the Argonaut had its modest share in the proceeding—not in the spirit of endorsement of Wolfe, his affiliations, or his political ways, but in protest against Grant and what he has stood for. We were tired, literally worn to the marrow, with the self-righteousness and the crankisms of progressivism. We preferred Eddie Wolfe, calculating politician that he is, with the certainty that he would stand for reasonable things, to the virtuous Grant with his propensity to novelties, whimsicalities, and over-virtuous meddlings. In brief, we preferred a politician of normal views and purposes to a goody-goody reformer nominally inspired by lofty ideals, but in practice a mere taker of programme, however eccentric, and a pestiferous disturber of reasonable and established conditions."

San Francisco Town Talk—"Wolfe was one of the ablest of standpat Senators a few years ago. Indeed he was regarded by many as the ablest man in the Senate, and now that the reaction has set in, and the standpatter is no longer abhorred as a vessel of iniquity, the probability is that Wolfe will win in a walk against Grant. For Grant is rapidly becoming an anachronism. He belongs to that august age of political purity that now seems so remote, the age of Hiram's heyday when the pillars of government were receiving a new coat of varnish. He spent most of his time at Sacramento reducing San Francisco's blood pressure. He was for making the Exposition wholesome by rendering it dry, and we have to-day as a monument of his genius and zeal for purity the Redlight bill by which he would abolish the oldest of professions. Senator Grant is an exotic flower that flourishes best in communitles that are chemically pure."

CHAPTER VIII.

Office to Wolfe, Praise to Grant.

The Senate authorized the appointment of a committee of five to make a full and complete investigation of the Grant-Wolfe contest and of the matters pertaining thereto. For this purpose ample funds, $2500, were provided. The Lieutenant-Governor appointed to the committee Senators Carr, Campbell, Anderson, Chandler and King.

Grant's contention had been from the beginning that if the recall had been lawfully invoked, if the election had been regular, and a majority of the votes had been cast against him, the Senate had nothing else to do than to seat his opponent.

But, on the other hand, if the recall had not been lawfully invoked, if the election had been irregular, or if a majority of the votes had not been cast against him, then, Grant contended, the Senate could not in justice deprive him of his seat.

All that Grant asked was complete investigation and just decision.

Complete investigation was expected of the committee. Its personnel was guaranty of just decision on the facts uncovered. But that the members were prepared, either by temperament or experience, to meet the suave trickery of the element that was opposing Grant may well be questioned. The committee would have been more effective had there been upon it at

least one member of the aggressiveness and determination of Kehoe of Humboldt.

From the beginning of the investigation the committee disregarded technical objections.

The recall provision of the State Constitution, for example, provides that the circulator of a recall petition must be a qualified elector. To be a qualified elector one must be registered as such. The experiences at San Francisco demonstrated good reason for this constitutional precaution. The forger of such a petition may be located if he is registered. It may be extremely difficult to locate him if he is not registered.

Among those who circulated petitions against Grant was one Swain. The face of the Swain section of the petition showed it to have been verified on April 4, 1914. Swain, it was shown, did not register until April 28. There were on this petition 111 names, secured apparently before April 4, at a time when Swain was not a qualified elector. Grant contended that, since Swain prior to April 28, the date on which he registered, was not competent to circulate a recall petition, these 111 names should be rejected.

To meet this, the opposition to Grant offered evidence that the petition had actually been verified on May 4, instead of April 4, as its face showed. This would have allowed Swain six days, from April 28 to May 4, to get his 111 names. The committee states in its report that this evidence was satisfactory to the committee, but the committee goes on to say that it was of the opinion "that these signatures should not be thrown out even if the circulator had not been registered."

The Constitution, as another example, provides that "each signer (of a recall petition) shall add to his signature his place of residence, giving the street and number, if such exist." Grant claimed that some seventy-seven of the signers of the petition had not done this. The committee held that this allegation was not substantiated, but gave its opinion that "this objection was highly technical in character and was not in itself sufficient to justify the elimination of such names."

In what the committee termed the more substantial grounds of objection, Grant's contentions were pretty well sustained.

Grant alleged in his complaint that not less than twelve names on the petition had been signed more than once and counted more than once by the Registrar. Of such duplicate signatures, the committee found twenty-four, just double the number which Grant had alleged.

Grant also contended that not less than fifty-one signatures on the petition counted against him were of persons who, at the time they signed, were not qualified electors of the district. The committee found the signatures of fifty-seven who were not registered at the time they had signed the petition, while the signatures of twelve appeared who were not qualified electors at the time of the investigation.

For the purpose of the investigation, Grant furnished the committee with a list of ninety-one persons whose names appeared on the petitions, but who had written Grant denying their signatures.

Of the ninety-one, the committee had fifty-three

before it. Of these, three or four stated they had signed the petition knowing what it was. Four denied their signatures, insisting their names had been forged. Forty-five out of the fifty-three when asked whether or not they had signed a recall petition against Grant stated they had not. When shown the signatures, however, they admitted them to be genuine, but continued to insist they had signed no recall petition. They had signed a petition, many of them stated, on the representation that it was to prevent San Francisco going "dry." They had not understood they were signing a recall petition against Senator Grant or any other official.

It was shown that sheets of names signed to one petition—to keep open San Francisco saloons, for example—could have been detached and then fastened to the Grant recall petition.

In addition to these ninety-one names, Grant furnished the committee with the names of thirty-six persons whose names appeared on the petition, but who were prepared to testify that they had been induced to sign through misrepresentation. The committee did not call these witnesses, although the gross misrepresentation under which signatures had been secured to the petition became the principal feature of the investigation.

In concluding its report on the findings, the committee stated that "this investigation has disclosed abuses in securing signatures to recall and other petitions to the remedying of which by appropriate legislation the attention of this Legislature may properly be directed."

Wolfe declared before the committee that he could have had nothing to do with the petition, for, he insisted, he had up to a short time before the election steadfastly refused to become a candidate against Grant.[74]

A new element in the very bad mess was introduced by J. H. Zemansky, Registrar of Voters at San Francisco.

Early in the investigation, Zemansky offered twenty names which he contended should have been counted on the petition but were not. Thirteen of these names, he held, had been marked not registered through erroneous precincting, six had been overlooked, one had not been counted because of the given name John

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74 Wolfe's efforts to escape responsibility for the position in which he found himself brought forth a number of sharp retorts.

"Wolfe in his statement of his candidacy," said the San Francisco Daily News (issue October 6, 1914), "greatly deplores the accusation that he is the candidate of the Redlight forces. He denies it. Perhaps in one sense he is not. But every dive-keeper, every thug in the Nineteenth Senatorial District is for Wolfe and against Grant. Figure it out for yourself who is the candidate of the dives."

"I haven't," said Senator Frank A. Benson in a speech before the Senate, March 10, 1915, "the power to look into the heart of Senator Wolfe and see what motives animated him. I haven't the power to look into all the details of the campaign that resulted in his elevation to the position which he holds now, but sweeping aside all of the subtle eloquence with which he has treated you, this fact stands out clearly: there was but one issue in the recall election at which he succeeded Senator Grant, and that was the issue of vice against decency. Whether Senator Wolfe was responsible for that or not, I have no way of knowing. He says he is not and so far the record is with him. But the situation was there, and he took advantage of that situation. Senator Grant was recalled because he stood for the Redlight Abatement bill, and let not all this subtlety give you any impression that any other condition prevailed. . . Why are you gentlemen (the San Francisco members elected as Union Labor candidates) sitting here in the attitude of opposition to Senator Grant? Is it because he did anything wrong for labor? No, it is because you disagree with his stand upon the Redlight Abatement bill, and that is the reason that Senator Wolfe occupies his seat to-day. That may not have the subtlety that he affords to it; I am not going to appeal to your religions. I have no tremulous talk to make about my family or things of that kind; but there is the fact and you can't get away from it."

instead of Giovanni. Later, the Registrar filed his certificate that 196 additional names marked "not registered" at the time the petition was originally examined were in fact registered at the time the petitions were filed.[75] Of the 196 names, the committee rejected 61, on the ground that they "appeared on sections of the petition verified some considerable time before the petitions were filed and were obviously names of persons who were not registered at the time of the signing." The committee accepted the 135 names remaining, and concluded they should be added to the number on the recall petition.

By the time the investigations of the committee had reached this point, the first part of the session was drawing to its close. It was thought that the committee would continue its work through the constitutional recess, and be ready to report when the Legislature reconvened. This would have made possible the employment of a handwriting expert, and have ensured an investigation as searching as would have been made had conditions been reversed and a committee of the character of that on Public Morals of "machine" days been in the place of the Carr committee, with a machine Senator standing in the place of Senator Grant. Such a committee as the old Public Morals committee would, of course, have seated

75 Zemansky's explanation was that the persons whose names were not counted, had been registered during the two or three days before the filing of the petitions and that the original affidavits had not been returned to the office of the Registrar and bound in the registration books at the time he made his original certificate, and that he did not attempt to check against these affidavits for the reason that the recall petition appeared to have a considerable number of names in excess of the required number and that hence such examination was unnecessary—see Report of Committee Senate Daily Journal, for January 28, 1915.

the "machine" Senator whether or no. But Grant made no such request. He asked only thorough investigation of the extraordinary conditions attending his recall, and protection in his rights as a member of the State Senate. Nevertheless, the committee decided to go no further with the investigation, and to base its findings on the evidence in hand. On the evidence in hand, the committee found for Wolfe and against Grant.

In their by no means exhaustive examination, the committee found that fifty-seven of the signers of the petition were not registered when they had signed. Fifteen whom Grant alleged were prepared to testify they had signed before they registered were not examined. The fifteen, the committee admits in its report, would have probably increased the number to seventy-one. A recount of the names counted as valid showed that the number was three less than the number certified to the Secretary of State. The committee found twenty-four duplicate signatures, and twelve signatures of persons who were not registered at all. These with the four who had sworn their names had been forged made a total of 114. The addition of the 111 names on the Swain petition would have made a total of 225. The discovery of thirty-three more irregular or forged signatures would have been sufficient—if we reject the later discoveries of the San Francisco authorities—to bring the number of signatures upon the petition below the number required for the invoking of the recall.

The committee did not consider—and apparently

with very good reason—that it should reject signatures which, although secured by fraudulent misrepresentation, were clearly genuine. Had the forty-five names of the witnesses who testified they had signed because the subject of the petition had been misrepresented to them, been eliminated, there would not—had the signatures mentioned above been rejected, and the claims of the discovery of new names disallowed—have been enough names on the petition by twelve to have invoked the recall against Grant.

What further investigation would have developed is, of course, a matter of conjecture.

That the committee's investigation was exhaustive, or its report convincing, none who followed the astonishing "conspiracy of the city's dregs," as the San Francisco Examiner declared the campaign against Senator Grant to have been, can admit.

But in behalf of the committee it must be said that it was seriously handicapped because Grant had been handicapped in the presentation of his case. On the other hand, Wolfe, with a world of assistance—and the sympathy of the San Francisco authorities and largely of the San Francisco press—was free to make his contentions appear to the best advantage.

Senator Grant is not a wealthy man. His stand for clean conditions has brought down upon him the wrath of the San Francisco underworld. To meet the several movements started for his recall required much of his time and involved no inconsiderable expenditure.[76]

[76] The loss of time and expenditure of money is but part of what a man courts who interferes with the activities of exploiters of tenderloin conditions. He finds himself harassed at every point. An architect at San Francisco who exposed vice conditions in the

Some indication of the amount of such expenditures is offered in the provisions made by the Legislature to meet the campaign expenses of Senator Owens of Contra Costa County.

The State Constitution provides that when a recall movement against an office-holder fails, he shall be reimbursed out of the State treasury for expenditures legally made. Senator Owens defeated the recall movement brought against him. The 1915 Legislature set aside $7000 out of which legal expenses incurred by Senator Owens are to be paid. Grant, on the other hand, having been defeated, was not reimbursed. It may be added, that while the Owens recall fight lasted a few weeks only, the Grant recall extended over a period of nearly two years. Unquestionably Grant's defense of his office cost Grant much more than the amounts expended by Senator Owens.

Had the conditions been reversed, had reputable citizens, for example, been attempting the recall of a Senator who had on the floor of the Senate been the mouthpiece and defender of racetrack gamblers, liquor sellers, lottery keepers and pawnbrokers; then gamblers, booze-sellers, lottery companies and pawn-brokers would have seen to it that plenty of funds were provided to keep their Senatorial mouthpiece in his place.

Mission district, found the stakes fixing the lines of a building he was beginning changed in the night. He was obliged to employ watchmen to protect his clients. He found himself harassed by the San Francisco police and made subject of petty criminal prosecution. Grant in his turn was put to much petty annoyances. The following letter, signed, "One of Your Victims," is sample of what his mail brought him:

"Mr. Edwin E. Grant: By your wicked Redlight bill, you will make an outcast, a beggar and a wanderer of hundreds of helpless women, myself among them; but I give you full and fair warning that on the day that is done, or as soon after as possible, I intend to shoot you and no power on earth will save you."

But as those who applaud Senator Grant for his truly admirable stand in the Senate had no money at stake, they confined expression of their appreciation, save in exceptional cases, to applause

Grant footed the bills.

By the time the third recall movement against him had brought him to his contest before the Senate he was seriously embarrassed financially.

When after nearly two years of meeting the "campaign of the city's dregs," Grant opened his contest before the Senate, he needed the services of detectives and attorneys. He had no funds to employ either. He had to get on as best he could. That he got his case into as good shape as he did is astonishing to those who know the difficulties under which he labored. He did succeed in bringing enough evidence before the committee, which to the plain citizen at least, seemed sufficient to have warranted the committee going to the bottom of the bad mess.

It would, of course, have been well had Grant been in a position to go to the bottom of the bad mess himself. But he was not. And, after all, the fight was not so much Grant's as it was the fight of the State of California.

Grant, in being ousted from the Senate, was, of course, greatly injured. But again, the unseating of Senator Grant on the expressed ground that he had voted for a temperance measure, and for the further, but not expressed, reason that he was sponsor for the Redlight Abatement act, injured the State of California more than it injured Senator Grant.

The State of California had more at stake in this contest than did Senator Grant. Senator Grant was not in a position to go to the bottom of the bad mess. The State of California had, however, provided $2500 for complete investigation and expected the work to be done. The Senate contest committee was in a position to go to the bottom of it.

But of the $2500 provided, the committee found it necessary to use only $230.85.

From their findings, there was nothing for the members of the committee to do but to recommend the seating of Wolfe.[77]

The acceptance of the recommendations by the Senate followed as a matter of course. The vote on the committee's report can scarcely be held to reflect the views of the Senators on the recall of Senator Grant. The real sentiment of the majority of the Senators was better shown in resolutions commending Senator Grant,

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77 The tone of the committee's report in some places did Grant injustice, and in others gave Wolfe credit which might well have been withheld until more extensive investigation had been made. For example, the report set forth:

"It was urged (by Grant) that there were many duplicate signatures on the recall petition. Your committee found twenty-four of these."

The inference from that paragraph is that Grant made extravagant claims of duplications, and succeeded in establishing only twenty-four.

The fact is that Grant alleged twelve duplications. The committee found twenty-four, double the number that Grant had specified.

Or again, the report sets forth:

"In fairness to the contestee (Wolfe) your committee states that there was no evidence connecting him with any of the misrepresentations incidentally disclosed during the course of the investigation."

That is probably true. So far as the writer knows no evidence on this point, one way or the other, was taken.

Nevertheless, there were circumstances surrounding the case which suggested at least the advisability of the committee refraining from comment on Wolfe's connection with the affair until after exhaustive investigation.

which were introduced by Senator Kehoe, and adopted immediately after the vote giving Wolfe his seat had been taken. The resolutions are as follows:

"WHEREAS, Senator Edwin E. Grant has during his term, as a member of this Senate, rendered distinguished service to the State; and

"WHEREAS, He has, by his high ideals, his sterling character and his lofty conception of official duty, endeared himself to his associates; therefore, be it

"RESOLVED, That the Senate of the State of California extend to Senator Edwin E. Grant this expression of high regard and esteem on the termination of his honorable services in this Senate; be it further

"RESOLVED, That this resolution be printed in the Journal, and that a copy be sent to Senator Grant by the President of the Senate."

Scarcely had the resolutions been offered, than Wolfe was on his feet suavely stating that if the resolutions would take the sting of defeat from Senator Grant, or offer him any consolation, he (Wolfe) would not object to their adoption.

The temper of the Senate was shown in the smashing answer to Wolfe's sneer. Scarcely had Wolfe stopped speaking, than Luce of San Diego had begun his reply.

"Senator Grant," thundered Luce, "does not require removal of sting of defeat, nor does he need consolation. I seconded the motion to adopt these resolutions because it is our duty to adopt them. The State of California owes to Senator Grant a very great debt. He championed a cause on the floor of this Senate, when it was unpopular in the State and unpopular in

his district. But his cause was right. The State has since endorsed it at the polls by overwhelming vote. That cause is now gaining throughout the nation. It is no more than due this man that we adopt these resolutions—not to relieve him of the sting of defeat or for consolation, which he does not need, but as the duty of the Senate."

CHAPTER IX.

Safeguarding Direct Legislation.

The scandals attending the recall of Senator Grant emphasized other scandals of the misuse of the Initiative and Referendum. Generally speaking, the same element which had brought about Grant's recall, was responsible for the misuse of the Initiative and Referendum. These elements sought through Direct Legislation, to secure what, since the breaking down of the State machine, could no longer be had through the Legislature, and to set aside laws which interfered with underworld and public-service exploitation.

The first important measure to go on the ballot under the Initiative in California was a bill to legalize racetrack gambling. The petition was so worded as to make it appear that the bill was to prevent racetrack gambling. Thousands of signatures were secured on such representation. Furthermore, signatures on this petition are now known to have been deliberately forged. The bill went on the ballot because of misrepresentation that amounted to fraud and forgery. But the misrepresentation was exposed, the fraud detected, and the bill defeated at the polls by overwhelming majority.

In 1913, important acts were held up under Referendum petitions to which thousands of names had been forged. In one instance, that of the Redlight Abatement act, a competent handwriting expert, Mr. Theodore Kytka, asserted that had all the forged signatures

been struck from the petition, there would not have remained enough valid signatures to have invoked the Referendum. On the so-called Non-Sale of Game bill petitions, there were detected more than 10,000 forged names.

Governor Johnson in his biennial message to the 1915 Legislature pointed out these abuses and urged that steps be taken to prevent their recurrence.

> "It would be idle to deny," he said, "that certain abuses (of the Initiative, Referendum and Recall) have arisen just as abuses in the early trial of new policies ever will arise. It is our duty to remedy those abuses, if possible, and therefore, I direct your attention to the fact that solemn acts of the Legislature have been held up and presented to the people by Referendum upon petitions that in part, at least, were fraudulent. The Fish and Game bill was passed by the Legislature, signed by the Governor, and received the solemn sanction that the Constitution requires for the making of a law. A Referendum petition was presented against this bill, part of which was founded upon rank forgery. The Referendum of the Redlight Abatement bill was in part composed of forged signatures. It is stated that the first (second) recall petition presented against Senator Grant in San Francisco likewise had upon it many forged signatures. The Initiative and Referendum are the very highest prerogatives of the people. To permit their use through fraud or forgery is to pollute at its very source our government. So scandalous were the frauds upon the Referendum petitions, that some months ago, I asked the Attorney General to investigate them and to take charge of cases pending in San Francisco."

When the Legislature met it had no definite plan for meeting this condition. Had it not been for the

Grant-Wolfe Recall contest it is not probable that much would have been attempted. But the developments of the contest would not permit of the abuses being forgotten. Agitation for corrective legislation continued.

Several measures to that end were introduced. They were divided into two groups:

(1) The first group proposed changes in the constitutional provisions governing the recall and direct legislation. Of this group, was Senate Constitutional Amendment No. 21. This measure changed the method of conducting recall elections.

Under the present arrangement, the recall election, and the naming of the successor of the incumbent, provided the incumbent be recalled, is held at the same election. Under the proposed amendment there would have been two elections. At the first, the question of the recall would have been voted upon. At the second, provided the incumbent was recalled, his successor would have been elected.

It was claimed for this amendment that by dividing the election incentive for candidates to labor for the recall of the incumbent would be removed, and the issue would be confined to the merits of the recall. This, and all other suggestions which involved change in the constitutional provisions governing the recall, initiative and referendum, had the earnest opposition of students of direct legislation. Prominent among such opponents was Dr. John R. Haynes of Los Angeles, California's first authority on direct legislation.

Dr. Haynes and his associates contended that the

abuses of the recall, initiative and referendum were not due to any weakness of the California direct legislative system, but to non-enforcement of the law in communities, principally San Francisco, where the abuses were practised. They urged that, instead of tinkering with the constitutional provisions governing direct legislation, the Legislature should clearly define the crimes arising under the fraudulent use of referendum, initiative and recall, and fix definitely the duty of prosecuting officers in such cases.

This policy eventually prevailed. The amendment proposing change in the recall did not get beyond committee. Several bills to prevent abuses which were fast bringing Direct Legislation into disrepute, were, however, enacted.

It had been shown at the Grant-Wolfe contest hearings that it would have been quite possible for Grant's opponents to have attached to a Grant recall petition pages of names from petitions circulated for other purposes. To make such a trick impossible in future, Senate Bill 725, introduced by Chandler, provided that at the top of each page after the first page of every initiative, referendum or recall petition, shall be printed a short title showing the nature of the petition and the subject to which it relates.

Two companion bills, also introduced by Chandler, were suggested by the experiences at San Francisco.

The first (Senate Bill 726) made it a felony for any person to subscribe a fictitious name to any initiative, referendum or recall petition, or to any nominating petition, or to subscribe the name of another. The

penalty was made imprisonment in State prison for not less than one nor more than fourteen years.

In the second (Senate Bill 727), its authors endeavored to guard against such abuses as those which attended the circulation of the Grant recall petition. This measure provided that it shall be unlawful:

(1) For the circulator to misrepresent or make any false statement concerning such a petition to any person who signs, makes inquiries about, desires to sign, or is requested to sign.

(2) To file any petition which is known to him filing it to contain false or fraudulent signatures.

(3) To circulate or cause to be circulated petitions known to contain false, forged or fictitious names.

(4) To make any false affidavit concerning such petition, or the signatures appended thereto.

The penalty for infringement of this act was made imprisonment in the county jail or State prison not to exceed two years or by fine not to exceed $5000, or by both.

There was clever suggestion about the lobbies that the penalty provided in these several bills should not be made more serious than misdemeanor. Such suggestion was even made before the Committee on Elections to which the measure was referred. Indeed, the original draft of Senate Bill 727 provided misdemeanor penalty. But the seriousness of the offenses committed by those who were responsible for the methods employed to secure the recall of Senator Grant had so impressed members of the type of Chandler, that the bills were passed with the more serious pen-

alties provided. Not a vote was cast against any of this group of bills in either House.

These measures definitely define the crime and definitely prescribe the penalties for fraudulently invoking the initiative, referendum or recall. But in communities, such as San Francisco, where the influence of the underworld reaches high, the laws will offer little protection, for, if the future is to be judged by the past, they will not be enforced.

For months, for example, efforts were made at San Francisco to secure prosecution of those responsible for the frauds committed in connection with the Red-light Abatement petition, and the second petition for the recall of Senator Grant. The names of those responsible were known, but effective prosecution was not secured. There seemed question whether or not the Attorney General could of his own volition take over the prosecution. Governor Johnson finally requested him to investigate and take charge of the cases.

That there might be no question in future as to the Attorney General's powers in such matter, a bill was introduced (Senate Bill 724) to amend Section 470 of the Political Code, to provide definitely that whenever in his judgment there is reasonable evidence that the laws of the State of California relating to State elections, including the laws relating to the circulation or signing of initiative, referendum or recall petitions, or the certification thereof, have been violated, and the local officers have not exercised due diligence in prosecuting the offenders guilty of such violations, the Attorney General may institute and conduct the necessary proceedings for the prosecution of such offenders.

Such a provision would have meant much in a community where a District Attorney owed his election to, or was for any reason subject to dictation of an element making corrupt use of any of the provisions of direct legislation. But this measure did not become a law. It was declared to be unnecessary, and remained in committee until the close of the session.

But something more than clearly stated laws and prosecuting officers with the integrity and ability to enforce them is necessary if the fraudulent use of the initiative, referendum and recall is to be prevented. A healthy public spirit must impress upon judges on the bench that the forging of a direct-legislation petition is even a more serious crime against society than the forging of a check. At San Francisco, when one of the circulators of a Redlight Abatement petition was convicted of having placed upon it hundreds of fictitious names, he was sentenced to four years in the penitentiary, but was immediately released by the trial judge. More recently, when nine men plead guilty to wholesale violation of the law in obtaining signatures to the referendum petition which held up three important acts of the 1913 Legislature,[78] the Superior Judge before whom they appeared turned them loose on probation, the probation term being fixed at one year.

It is now pretty well established that at San Francisco the underworld element may violate laws safe-

[78] The Redlight Abatement act, the Water Commission act, the Non-Sale of Game law. An attempt to hold up a fourth measure which provided for the closing of saloons between the hours of 2 and 6 a. m. failed because so many forged signatures were struck from the petition as to reduce the number of signatures below legal requirements.

guarding the public against abuse of the initiative, referendum, and recall without danger of suffering the prescribed penalty. The ease with which forgers of the initiative petition to legalize racetrack gambling escaped punishment, even after conviction in one case at Sacramento, was unquestionably earnest to the San Francisco forgers of the referendum petitions that they would not be prosecuted, or if they were prosecuted their prosecution would be without danger to themselves. The outcome of the San Francisco referendum and recall forgery cases is earnest to the underworld that direct legislation petitions may in that city be forged with impunity.[79] Recurrence at San Francisco at least of the scandals which have already done much to disturb public confidence in direct legislation, may be looked for as a matter of course. And such recurrence will be due to the failure of the District Attorney's office to conduct effective prosecution of such cases, and to the course of those San Francisco Superior Judges who have turned loose even those who were finally convicted.

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79 "Remembering the safety with which forgers and perjurers committed their crimes in the pay of the racetrack gamblers of 1912," said the Oakland Enquirer in its issue of December 30, 1913, "do you wonder that those whom the vice supporters hired to circulate their referendum petitions, in 1913, are said to have resorted to wholesale forgeries and perjuries?"

CHAPTER X.

The State Non-Partisan Bill.

The 1915 Legislature completed the work begun in 1911 of putting township, county and State elections on a non-partisan basis.

The trend toward non-partisanship in California began in the municipalities even before the State-wide campaign against the old Southern Pacific machine was inaugurated.[80] The City of Berkeley was the first to work out a plan by which all municipal officials were elected on absolutely non-partisan basis, and by majority vote.

Under the Berkeley system two elections are held, the general primary and the final. Any citizen may

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80 Under partisan rule in the municipalities, the public was powerless to correct the abuses of machine government. At San Francisco in 1905, for example, Republicans and Democrats united to break the Schmitz-Ruef hold upon the city. The organizers of the movement were men endeavoring to correct abuses. But the party organizations eventually controlled, and the party organizations were controlled by agents of public utility corporations. The same corporations that financed the Republican-Democratic "reform" movement, gave similar assistance to the Schmitz-Ruef Union Labor Party group. Thus, the corporations financed and controlled both groups. The public lost, no matter which group won. In the 1909 election at San Francisco, in order to defeat at the Republican primaries those candidates who were standing for law enforcement, all whom the public service corporations and underworld could control, were registered as Republicans. For the 1909 municipal primaries at San Francisco 47,945 registered as Republicans. This was 38,609 more than the Republican vote for Mayor in 1907, only two years before. But at the final elections, Crocker, the Republican candidate for Mayor, received only 13,766 votes, 34,179 less than the registration for the Republican primaries. Reputable citizens would of course register as members of that party which stood for the principles they advocated. But the disreputable registered where they could be used to the best advantage. See "'The System,' as Uncovered by the San Francisco Graft Prosecution," Chapters I and XXVII.

become a candidate at the first election, by conforming to certain simple requirements.[81] If at the first election a candidate receive a majority vote he is declared elected. If, however, no candidate for a given office receive a majority, then the candidates equal to double the number to be elected who have received the highest number of votes become candidates at the final election.

Within a few years after Berkeley had placed her municipal government on non-partisan basis, every important municipality of the State, with the exception of San Jose, had adopted the Berkeley plan or some modification of it. County and State officials were, however, still elected on the partisan basis.

At the 1909 session of the Legislature, an attempt was made to put the election of judges on a non-partisan basis. A bill to that end passed the Senate but was defeated by narrow margin in the Assembly. An attempted blow at partisan State elections by doing away with the party circle[82] on the Australian ballot also failed in the Assembly, after having been given favorable consideration in the Senate. A constitutional amendment to give counties charter government and

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81 At Berkeley the petition of nomination required of a candidate must consist of not less than twenty-five individual certificates. Other municipalities, while in some cases modifying this requirement, have, in the main, made nomination for the first election quite as simple. The Berkeley charter was ratified by the 1909 Legislature. There was some opposition that session to so-called "freak charters," that is, charters providing for the Initiative, Referendum and Recall and reforms in the methods of conducting elections. (See "Story of the California Legislature of 1909," pages 194-5-6.) But no California Legislature has up to the present time refused to ratify a Municipal Charter.

82 For account of the corruption of the Australian Ballot in California, and its restoration, see "Story of the California Legislature of 1911," page 85.

incidentally non-partisan privileges was also defeated at the 1909 session.

But at the 1911 session, not only was the election of judges made non-partisan, but the election of school officials as well. Not only was the party circle stricken from the Australian ballot, but the party column also. A constitutional provision giving charter government to counties placed non-partisan election of county officials within the reach of those counties which might elect to avail themselves of the opportunity.

At the 1913 session, the election laws were so amended as to place the election of county officials on non-partisan basis practically the same as that provided under the Berkeley plan of electing municipal officials.

This plan was tried out with evenly good results at the general county elections of 1914. Thus, all the elections in political subdivisions of the State, aside from Congressional, Legislative and Equalization Districts, were, in 1914, on non-partisan basis. The same was true of State judicial and school officials.

Governor Johnson, during the 1914 campaign, stated in every important speech he made, that in the event of his re-election he would urge upon the Legislature that all State officers be elected without party designation. The 1914 State election, as has already been shown,[83] demonstrated that the State, for all practical purposes, is already on non-partisan basis.

In compliance with his pledge Governor Johnson recommended to the 1915 Legislature that State officials

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83 See Chapters I and II.

be elected without party designation of any sort.[84] To that end Young of Berkeley introduced the so-called Non-Partisan Election bill.[85]

The principal opposition to this measure came in the Assembly. There, partisan Republicans and partisan Democrats united with the two Socialist members to bring about the bill's defeat. Their leaders boasted they controlled more than forty-one votes, the number necessary to prevent its passage in the Lower House. But by the time the issue came to try-out, the more than forty-one votes boasted had dwindled to a scant thirty.

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84 "Most earnestly do I suggest to you," said Governor Johnson in his biennial message to the Legislature, "that our State officials be elected without party designation of any sort. The advance to non-partisanship in our State will be neither an extended nor a difficult step. The political units that compose the State have all adopted non-partisanship in the selection of their officials. The desideratum of a government is efficiency—to obtain honest and able officials devoted exclusively to the government. To govern well is to govern for all, not for a part or a class. To act in official capacity should be to act solely for the benefit of the State, and that official acts best who forgets every other consideration but the interest of the State. Long ago this lesson was learned by cities. In California, as in many States, all of our cities elect their officials without regard to party affiliations at all, and without party designation. Why? Because experience taught these cities that thus they obtained better officials and greater efficiency. It is within the memory of all of us that these cities formerly elected their officials—city clerks, and the like,—because of their partisan affiliations. Progress in city government swept from existence this old system, that had obtained so long, and its destruction was necessary in order that the best government be obtained. Recently the counties of the State adopted the plan that has been in vogue in cities, and elected all of the county officials without party designation. Inquiry among the counties has demonstrated that this method has met with almost universal approval, and it is hoped that the counties, in service, will be benefited just as the cities, in service, have been benefited. We now suggest applying the principle to the State as well, so that candidates for State positions will come before the people upon what they themselves are, not upon what their ancestors were, that they will ask the suffrages of the electorate upon their record or lack of record; their merits or their demerits, rather than upon the blind partisanship of themselves or their forefathers. There is nothing thus presented to you that seeks to destroy or even to affect political parties nationally."

85 Assembly Bill 715, 1915 series.

But this minority, under the leadership of Milton Schmitt [86] of San Francisco, and with the counsel and encouragement of Secretary of State Jordan, undertook by blocking tactics to delay final action on the measure, having in view always the possibility that so long as the bill was not actually passed, something might come up to prevent its passage.

The first contest between the two groups came when the bill was up for second reading.

The State constitution provides that before passage bills must be read three times in each House. The reading of the title when the bill is introduced is by legislative fiction called "first reading." The "second reading" is a form only, but this form must be gone through with before the bill can be put to third reading and final passage.

In the case of the Non-Partisan Election bill, if the second reading were completed on the day it came up, the bill at its next hearing would be on third reading and final passage. Its opponents therefore labored to prevent completion of second reading.

The first test vote between the two factions came on an attempt to adjourn the session before second reading had been completed. The motion to adjourn was made

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86 Schmitt's legislative record, although he has not served so long in the Legislature, is practically the same as that of Senator "Eddie" Wolfe of San Francisco. Mr. Schmitt comes from the same part of San Francisco from which Senator Wolfe was last year elected. At the legislative session of 1909, Assemblyman Schmitt achieved some distinction by his vigorous opposition to the Stanford Dry Zone bill, which banished the groggeries from the edge of the Stanford campus. At the 1909, 1911 and 1913 sessions, Mr. Schmitt was the leader on the floor of the Assembly in practically all the fights against the so-called Progressive measures that have become laws, and which are now recognized as being most advantageous for the State. Mr. Schmitt, in opposing the Non-Partisan Election law, consistently rounded out his legislative record.

by Cary of Fresno. It was defeated by a vote of 28 to 47.[87] The Assembly then settled down to a test of endurance between the two factions. When, after a time, the bill's supporters had given evidence of weariness, Rodgers of San Francisco made a second motion to adjourn. This came within one vote of carrying,[88] a perilously close margin. But the motion to adjourn was defeated. The supporters of the measure had won for the second time. The endurance test between the two factions went on.

Schmitt, leader of the opposition, announced that he

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87 The vote by which Cary's motion to adjourn was defeated was as follows:

For adjournment, which would have delayed passage of the bill—Ashley, Bartlett, Benton, Boyce, Browne, M. B.; Bruck, Burke, Cary, Chamberlin, Downing, Edwards, R. G.; Hawson, Kerr, Long, Lostutter, Lyon, Manning, McCray, Pettis, Phillips, Quinn, Ream, Rigdon, Rodgers, Rominger, Schmitt, Scott, L. D., and Spengler—28.

Against adjournment and to prevent delay in passage of the bill—Anderson, Arnerich, Avey, Beck, Boude, Brown, Henry Ward; Byrnes, Canepa, Chenoweth, Collins, Conard, Dennett, Ellis, Encell, Ferguson, Fish, Gebhart, Gelder, Godsil, Hayes, J. J.; Johnson, Judson, Kennedy, Kramer, Marron, McDonald, J. J.; McDonald, W. A.; McKnight, McPherson, Meek, Mouser, Phelps, Prendergast, Ryan, Salisbury, Satterwhite, Scott, C. E.; Scott, F. C.; Sharkey, Shartel, Sisson, Widenmann, Wills, Wishard, Wright, H. W.; Wright, T. M., and Young—47.

88 The vote by which Rodgers's motion to adjourn was defeated was as follows:

For adjournment, which would have delayed passage of the bill—Ashley, Bartlett, Beck, Benton, Boyce, Brown, Henry Ward; Browne, M. B.; Bruck, Burke, Cary, Chamberlin, Dennett, Downing, Edwards, R. G.; Ellis, Hawson, Hayes, D. R.; Johnson, Kerr, Long, Lostutter, Lyon, Manning, Marron, McCray, Pettis, Phillips, Quinn, Ream, Rigdon, Rodgers, Rominger, Salisbury, Schmitt, Scott, C. E.; Spengler and Wills—37.

Against adjournment and to prevent delay in the passage of the bill—Anderson, Arnerich, Avery, Boude, Byrnes, Canepa, Chenoweth, Collins, Conard, Edwards, L.; Encell, Ferguson, Fish, Gebhart, Godsil, Hayes, J. J.; Judson, Kennedy, Kramer, McDonald, J. J.; McDonald, W. A.; McKnight, McPherson, Meek, Mouser, Phelps, Prendergast, Ryan, Satterwhite, Scott, F. C.; Scott, L. D.; Sharkey, Shartel, Sisson, Widenmann, Wishard, Wright, H. W., and Wright, T. M.—38.

had thirty-two amendments to offer. Two things soon became apparent:

(1) That Schmitt's amendments could not be adopted.

(2) That Schmitt and his followers would demand a roll-call on every amendment. As there are 80 members of the Assembly this would require the calling of 2560 names, to say nothing of the hours of debate on the various amendments. The bill could not go to third reading until the amendments—should Mr. Schmitt insist upon offering them—had been disposed of. The situation was admirably calculated to wear the Assembly out, and compel adjournment without the bill going to third reading.

After the third Schmitt amendment had been defeated, Assemblyman W. A. McDonald suggested that, as the majority of the Assembly was unquestionably opposed to such amendments, the Assembly vote on all the amendments at once.

What McDonald suggested had been actually done in that same Assembly Chamber, when, in 1909, machine-backed amendments to the Direct Primary bill were under consideration.[89] It was not right, to be sure, but opponents of such measures as the Direct Primary bill were not particularly nice about such matters.

With the changed order in the State Legislature, however, there was no danger of the Speaker following machine precedent and compelling action on all of Schmitt's amendments on one vote. Fish, Speaker pro

89 See "Story of the California Legislature of 1909," Chapter XI. page 116.

tem., who was in the chair, promptly ruled McDonald's suggestion out of order.

The weary consideration of Schmitt's amendments which could not be adopted continued.

The supporters of the Young bill, in safe majority, finally let it be known that they would continue in session until all of Mr. Schmitt's amendments had been considered and disposed of. This placed Schmitt in a most embarrassing position. The Legislature was scheduled to attend the Panama-Pacific Exposition the following day. The time which consideration of his amendments would consume would take all night and a good part of the following day. The Exposition trip would thus be spoiled with Milton Schmitt and his tactics in opposition to the Non-Partisan Election bill responsible.

And Mr. Schmitt, after three of his thirty-two amendments had been defeated, craved unanimous consent to withdraw, without prejudice, those which had not been acted upon.

The consent was given. The bill went to third reading. Mr. Schmitt and his following had in the initial skirmish met with defeat, and the proponents of non-partisan election of State officials with complete success.

When, a few days later, the bill came up in the Assembly on third reading the opposition again resumed its delaying tactics. Schmitt alone offered no less than fifty-three amendments, on many of which roll-calls were demanded. Followers of Schmitt tagged along after him with anywhere from one to half a dozen.

Few of these amendments were worth considering; many were trivial.[90]

But their authors did succeed in keeping the Assembly in session from 10 o'clock on Wednesday morning until 5 o'clock of Thursday morning. One by one the delaying amendments were defeated. When the last had been disposed of, the bill was passed by a vote of 48 to 31,[91] and sent to the Senate.

Senator Frank H. Benson, of Santa Clara, had charge of the bill in the Upper House. Curiously

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90 Section 8 of the bill provided, for instance, that the August primary election shall be held IN each precinct. Schmitt offered an amendment to make it read FOR each precinct. A half hour's debate on this amendment, during which Young showed Schmitt's contention in its favor to be without foundation, followed. Roll-call on the amendment was demanded. It was rejected by a vote of 26 to 51. Note those who voted for this amendment. The vote was:

Vote for amendment and to delay the bill—Bartlett, Beck, Benton, Boyce, Brown, Henry Ward; Browne, M. B.; Burke, Cary, Chamberlin, Downing, Edwards, R. G.; Hawson, Long, Lostutter, Lyon, Manning, McCray, Pettis, Phillips, Quinn, Ream, Rominger, Schmitt, Scott, C. E.; Scott, L. D., and Spengler—26.

Vote against amendment and to expedite the bills's passage—Anderson, Arnerich, Ashley, Avey, Boude, Bruck, Byrnes, Canepa, Chenoweth, Collins, Conard, Dennett, Edwards, L.; Ellis, Encell, Ferguson, Fish, Gebhart, Gelder, Godsil, Harris, Hayes, D. R.; Hayes, J. J.; Johnson, Judson, Kennedy, Kerr, Kramer, Marron, McDonald, J. J.; McDonald, W. A.; McKnight, McPherson, Meek, Mouser, Phelps, Prendergast, Rigdon, Ryan, Salisbury, Satterwhite, Scott, F. C.; Sharkey, Sisson, Tabler, Widenmann, Wills, Wishard, Wright, H. W.; Wright, T. M., and Young—51.

91 The vote by which the bill passed the Assembly was:

For the Non-Partisan Election bill—Anderson, Arnerich, Avey, Boude, Byrnes, Canepa, Chenoweth, Collins, Conard, Dennett, Edwards, L.; Ellis, Encell, Ferguson, Fish, Gebhart, Gelder, Godsil, Harris, Hayes, J. J.; Johnson, Judson, Kennedy, Kramer, Marron, McDonald, J. J.; McDonald, W. A.; McKnight, McPherson, Meek, Mouser, Phelps, Prendergast, Rigdon, Ryan, Salisbury, Satterwhite, Scott, F. C.; Sharkey, Shartel, Sisson, Tabler, Widenmann, Wills, Wishard, Wright, H. W.; Wright, T. M., and Young—48.

Against the Non-Partisan Election bill—Ashley, Bartlett, Beck, Benton, Boyce, Brown, Henry Ward; Browne, M. B.; Bruck, Burke, Cary, Chamberlin, Downing, Edwards, R. G.; Hawson, Hayes, D. R.; Kerr, Long, Lostutter, Lyon, Manning, McCray, Pettis, Phillips, Quinn, Ream, Rodgers, Rominger, Schmitt, Scott, C. E.; Scott, L. D., and Spengler—31.

enough, Senator Wolfe, who in the 1909 Senate led the fight against the Direct Primary bill, led the opposition to the Non-Partisan bill. His set speech invariably employed on such occasions, was thundered forth. He devoted himself largely—as he had done in his speech in opposition to the Local Option law in 1911—to questioning the constitutionality [92] of the proposed measure.

But his presentation of the constitutional feature carried no greater conviction than it had in his argument of four years before against the Local Option bill.

Senator Benson required but a few words to meet the lengthy objections of the measure's opponents. He summed up the purpose of the measure in the fewest words, when he stated that it divorced national politics from local offices. These local offices, he contended, have nothing to do with national politics.

The Senate passed the bill by a vote of 30 to 9.[93]

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92 When Wolfe, in his fight against the 1911 Local Option bill was beaten, he fell back upon the plea that the measure was unconstitutional.

Senator Cutten raised a laugh by asking Wolfe whether he desired a more stringent Local Option bill.

But it remained for Senator Estudillo to answer Wolfe's argument most effectively.

"Senator Wolfe," said Estudillo, "has shown a strange solicitude for this bill. Why does Senator Wolfe have such concern for its constitutionality? If the measure is unconstitutional, it will not hurt Senator Wolfe's friends. The Liquor Interests will not be hurt if the bill be found unconstitutional. Why this concern about its constitutionality? These men are not concerned about the bill's constitutionality. They raised the point of constitutionality to defeat the bill."

93 The vote by which the non-Partisan Election bill (Assembly Bill 715) passed the Senate was:

For the non-Partisan bill—Anderson, Beban, Benedict, Benson, Birdsall, Breed, Brown, Butler, Carr, Chandler, Cogswell, Cohn, Crowley, Finn, Flaherty, Flint, Gerdes, Jones, Kehoe, King, Luce, Lyon, Maddux, Mott, Rush, Scott, Slater, Strobridge, Thompson and Tyrrell—30.

Against the non-Partisan bill—Ballard, Campbell, Duncan, Irwin, Owens, Purkitt, Shearer, Stuckenbruck and Wolfe—9.

Certain necessary amendments had been adopted in the Senate. The bill as it had passed the Senate could not go to the Governor until the Assembly had concurred in these amendments. Milton Schmitt, and other Assembly opponents of the bill, started a ripple of opposition to concurrence. But this opposition resulted in nothing more serious than loss of two hours of the Assembly's time. The Assembly concurred in all the Senate amendments. The vote for concurrence was in the majority of cases 45 to 28.[94]

The change from partisan to non-partisan State election system, necessitated certain amendments to the codes to make them conform to the new order. This was accomplished in a series of measures, all of which were finally passed, and signed by the Governor.

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94 The vote by which the Assembly concurred in the majority of the amendments adopted in the Senate was:

For the amendments and for the bill—Anderson, Arnerich, Boude, Byrnes, Canepa, Chenoweth, Collins, Conard, Dennett, Edwards, L., Ellis, Encell, Ferguson, Fish, Gebhart, Gelder, Godsil, Harris, Hayes, J. J.; Johnson, Judson, Kennedy, Kramer, Marron, McDonald, J. J.; McDonald, W. A.; McKnight, McPherson, Meek, Mouser, Phelps, Prendergast, Ryan, Salisbury, Satterwhite, Scott, F. C.; Sharkey, Shartel, Sisson, Widenmann, Wills, Wishard, Wright, H. W.; Wright, T. M., and Young—45.

Against the amendments and against the bill—Ashley, Bartlett, Beck, Benton, Brown, Henry Ward; Browne, M. B.; Bruck, Burke, Cary, Edwards, R. G.; Hawson, Hayes, D. R.; Kerr, Long, Lostutter, Lyon, McCray, Pettis, Phillips, Quinn, Ream, Rigdon, Rodgers, Schmitt, Scott, C. E.; Scott, L. D.; Spengler, and Tabler—28.

CHAPTER XI.

Moral Issues.

During the days of Southern Pacific machine domination of the Legislature, measures which adversely affected vice interests were held up in committees on Public Morals. When the hold of the machine was broken, control of the Public Morals Committees was lost to the gambling element. Exploiters of vice thereupon raised the cry of "freak measure," "intolerance" and "unfair methods," against the passage of measures affecting underworld interests. The fact that practical measures against gambling, nickel-in-the-slot machines, exploitation of prostitution, and other underworld activities could no longer be held up in Public Morals committees was taken by underworld sympathizers as evidence sufficient of unfair treatment. Gradually, under the constant cry of "freak legislation," opinion gained that now the grip of the underworld upon the government of the State had been broken, the Legislature must have care lest it go too far in corrective legislation. Such argument of course had its origin in the underworld. By 1913 it had decided influence upon legislation. It did not, however, get very far at the 1911 session.

Underworld methods, when the gambling element controlled Public Morals committees, were then too fresh in the minds of the members to permit of the cry of "unfair treatment" from that source having much

effect.[95] But such tactics did have their effect at the 1913 session, and at the 1915 session they were employed effectively in blocking the passage of several good measures.

Lobbyists in the employ of liquor interests, for example, were very successful in creating an atmosphere that this or that measure affecting liquor or gambling interests was unjust. In this way, opponents of such legislation succeeded in dividing the members who ordinarily would have stood together on moral issues. Thus, we find Senator Luce, chairman of the Senate Public Morals Committee, decidedly opposed to the University Dry Zone bill, but in favor of the Local Option bill to make the unit of prohibition the county instead of the Supervisorial district. Senator Chandler, on the other hand, quite as sincere as Senator Luce, opposed the Local Option bill as most unjust, while earnestly advocating the passage of the University Dry Zone bill.

Both men acted in good faith in their support and in their opposition; both were for any measure that would break down the corrupting influence of saloon, gambling establishment and brothel. But both were influenced by the atmosphere that had been created against both bills. It is almost amusing to note that the same lobbyists who were at Sacramento opposing

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95 Nevertheless, the gambling element succeeded in securing at the hands of the 1911 session a concession by which the anti-Race Track Gambling bill was amended to give the gamblers fifteen days additional time in which to continue their operations at Emeryville. This concession was granted on the ground that it would be unfair to dealers in track supplies at Emeryville to close down their market without giving them opportunity to dispose of their stocks. See "Story of the California Legislature of 1911," pages 187-8.

the Dry Zone bill were there to oppose the Local Option measure also. Incidentally, Senator Chandler's opposition was the last element that made the passage of the strengthened Local Option bill impractical, while Senator Luce's known disapproval of the Dry Zone bill furnished its opponents with effective arguments against it, and weakened the position of its supporters. The two bills were opposed by the same lobby. Neither passed the Senate. With the support of both Senator Chandler and of Senator Luce they probably would have passed.

Nor were these the only measures defeated in this way. The adverse atmosphere against any and all moral measures brought about practical deadlock on such legislation. To be sure, the vice-exploiting element failed to put through any of its own bills. But they did succeed in blocking the passage of several very good ones.

It is significant that of the nine Senate measures which were referred to the Senate Public Morals Committee, but one became a law.[96] Of the twenty-five Assembly measures referred to the Assembly Committee on Public Morals, but four became laws. None of the four passed the Assembly until they had been amended into what was practically compromise form. But two of them, even as amended, started legislation in the right direction.

Assembly bill 562, for example, gave to prosecutors of certain "blind pigs" advantage which one may well wonder was not granted long ago. This act makes pos-

[96] An unimportant measure. Senate Bill 588, by Campbell, regarding the sale of intoxicants to habitual drunkards.

session of a Federal license to sell intoxicants in territory within "dry zones," prima facie evidence that intoxicants are being sold in the establishment thus licensed.[97]

It is notorious that hundreds of "blind pigs" operate in "dry" territory under Federal license.

While local district attorneys and police officials may violate their oaths of office, and permit infringement of the law, proprietors of "blind pigs" take no chances with Federal authorities, but get out Federal licenses. For years, attempts had been made to have such licenses made prima facie evidence that liquor is being sold in the establishment which show them. But until the 1915 session, such efforts had failed. To extend the provisions of this law to all parts of the State, whether "dry" or "wet," would have discouraging effect on "blind pig" enterprises. Such extension of the act, now there has been a start, may eventually be made.

Another of the four measures was also directed against "blind pigs." This bill, Assembly bill 22, was introduced by Wright of Santa Clara. It declares places where intoxicants are illegally sold to be nuisances, and provides much the same machinery for their abatement as that of the Redlight Abatement act. Before the Wright bill was enacted, however, the opposition forced several amendments into it, which were successfully resisted in the case of the Redlight Abatement act when that measure was before the Legislature in 1913. Whether these changes will furnish basis for attack on

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97 The important votes on bills considered in this chapter will be found in the Senate and Assembly tables on Moral issues in the Appendix.

the system of abating such places by injunction proceedings remains to be seen.[98]

Browne of Tuolumne attempted to apply the same method of abatement to establishments where illegal gambling games are permitted. This measure (Assembly bill 175) came out of the Public Morals Committee with recommendation that it do pass. It did not, however, come to vote, although it was before the Assembly for action for more than a month.

The other Assembly bills out of the Assembly Public Morals Committee which became laws, were Assembly bill 675, prohibiting the distribution of intoxicants on the grounds of public schools,[99] and Assembly bill 1184 strengthening the law which prohibits the sale of intoxicants to Indians.

The most important Assembly bill recommended for passage by the Assembly Public Morals Committee, only to be denied passage, was Assembly bill 236 by Phelps.

The aim of this measure was to outlaw gambling,

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98 These changes provide definitely that:

(1) A bond shall be furnished by the complainant in such abatement proceedings.

(2) That the owner must be notified of the condition complained of before action for the abatement of the nuisance can be brought.

It is important to note in this connection that similar measures have been on the statute books of other States for more than a decade, and that, although these measures definitely provide in some instances that no bond shall be required, while the application for a temporary injunction is deemed sufficient notice to the owner of the property, there is no record either of injury done property used for legitimate purposes, or of any blackmail attempted against property owners through such proceedings.

99 This measure met with vigorous opposition. One of the arguments advanced against it was that in the event of a child becoming ill on the school ground, and needing an intoxicant, the proposed law would make it a crime to give the liquor. Unfortunately for this "argument," however, those who advanced it were without statistics to show how many children would, during the last fifty years, have suffered seriously from failure to have intoxicants administered to them on the school grounds.

incidentally sweeping away the technicalities by means of which violators of anti-gambling laws escape punishment. So vigorous was the opposition to the bill, however, it was amended to exclude from its provisions the shaking of dice for drinks or for tobacco. That such action should have been taken by the Assembly of the State of California may astonish. But it was taken, nevertheless.

Then the cry was raised against the bill, that were it to become a law, prizes could not be given at card parties. Two attempts were made, one by Browne of Tuolumne, and one by Phelps, the bill's author, to have the measure amended to definitely exclude prizes given at card parties from its provisions. But the very persons who ridiculed the bill on the ground that "ladies would be unable to give card parties," were it to become a law, opposed these amendments, and they were defeated. The bill was finally defeated, the vote being 16 for it, to 40 against it.[100]

Another measure defeated in the Assembly after it had passed the Assembly Committee on Public Morals, was Assembly bill 1518. This measure prohibited the sale of intoxicants at baseball parks. Inasmuch as the demoralizing effect of bars at the parks is generally recognized, it was not thought that even the liquor interests would oppose this measure. But it was opposed vigorously, and finally defeated by a vote of 17 for to 44 against.

Senate bill 392, which did not go to the Public Morals Committee of the Senate, but to the Committee

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100 For vote on this bill see table of Assembly votes on Moral issues in the Appendix.

on Education, is classed with moral issues. This measure required that instruction in the nature of alcohol and other narcotics and their effects upon the human system as determined by science, must be given in the public schools. From the beginning the pro-liquor element objected to the word "other," insisting that alcohol is not a narcotic. However, the bill went through the Senate without the word "other" being stricken out.

But in the Assembly opposition to the word "other" continued. Finally Bruck moved to amend by striking out the objectionable word. This was done. The bill was further amended in the Assembly by striking out the provision that "the same tests upon the nature of alcohol and other narcotics and their effects upon the human system shall be required for promotion and graduation as in other subjects."

With these amendments the bill passed.

Measures introduced to correct the evils of the lottery-ticket selling, met with the fate that has attended similar measures at other sessions.

Even the time-honored measure making it a misdemeanor to have a lottery ticket in one's possession, made its appearance. This measure—admirable if the People of the State of California wish to provide effective means for enforcing existing laws against lotteries—has seen many committee deaths. Such was the fate of all the other measures for the suppression of lotteries. Not one of them was permitted to come to vote in either House. They did not get out of committee until too late in the session for action to be taken upon them.

The spirit of political San Francisco found expression in Assembly bill 224 introduced by Rodgers of that city. The bill prohibited the selling or giving away or delivering of intoxicating liquors between the hours of two and six a. m. after January 1, 1916. The purpose of the bill was to permit the sale, etc., of intoxicants between the hours of two and six a. m. during the period of the Panama-Pacific Exposition. The 1913 Legislature passed a measure preventing such sale during the hours named.[101] Mr. Rodgers's bill would have repealed the 1913 law, leaving San Francisco free to keep her liquor-selling establishments open all night until January 1, 1916, when the Panama-Pacific Exposition would be over. The bill did not come to vote in either House.

The anti-saloon element endeavored to amend the Local Option law to make the unit of prohibition the county instead of the supervisorial district. From the beginning, the anti-saloon people have contended for the county unit, only accepting the supervisorial district unit as a compromise when it became apparent that the county unit could not be secured.[102]

The liquor interest sent lobbyists to Sacramento to oppose the change.

These lobbyists succeeded in creating an atmosphere of distrust of the measures proposing the county unit. The whisper was carried through corridors and lobbies

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101 This measure was passed by the 1913 Legislature only after hours of heated debate. In its original form it provided for the closing of saloons between the hours of 1 and 5 a. m. The saloon interests finally succeeded in making the closing period from 2 to 6. See "Story of the California Legislature of 1913," page 292.

102 See "Story of the California Legislature of 1911," Chapter XV, page 190.

that the present Local Option law is an adjudicated act, that well-enough had better be left alone, that the public is tired of agitation.

At a hearing before the Senate Public Morals Committee, supporters of the county unit cited numerous cases to show the advantage of the county unit over the supervisorial district.

G. P. Hurst of Woodland showed by conditions in Yolo county the advantage of the county unit. The entire county is dry, with the exception of Broderick and territory in the vicinity of Broderick. In six months' time not a prisoner had been brought to the county jail except from Broderick. Broderick, however, seems to have kept the jail well populated. Mr. Hurst stated that Broderick in a single week had sent forty-two prisoners to the county jail. He held that this one community should not be permitted to saddle such annoyance and expense upon an entire county. Under the county unit, all saloons would be ruled out of Yolo county including those at Broderick.

Senator Duncan and other residents of Butte county showed that similar conditions exist in their county. In Chico and her suburbs, they said, is a population of 18,000. Within the incorporated limits of Chico the population is about 3800. The suburbs are overwhelmingly "dry." But the saloon element manages to control the majority of the vote of Chico city. This element will not permit extension of the city limits, for that would mean the voting of the saloon out of business. So Chico is held at a standstill by the non-progressive, saloon element, and in the center of this

"dry" territory, under the law as it now is, the little nest of Chico saloons finds safe resting.

Similar conditions were reported from a long list of counties which were demanding the strengthening of the present Local Option law by the substitution of the county for the supervisoral-district unit.

But the opposition lobby succeeded very well in confusing the issue. As has been seen, Senator Chandler became convinced that the suggested change was untimely or worse. A doubt as to the merits of the bill was created in the minds of other members who ordinarily would support such a measure. The liquor lobby made a good job of it. An atmosphere decidedly opposed to such legislation was created. As a consequence none of the county-unit bills came to vote in either House.

But while the chances for passage of the Local Option bills favored by the anti-saloon element diminished every day, the regulatory policy of the California wine interests was meeting with no better success. Indeed, the California wine interests were finding themselves as powerless against the dominating influence of the whisky wholesalers as was the anti-saloon group.

Curiously enough, the wine interests had announced soon after the 1914 November election, at which the Prohibition amendment had been defeated, their intention to lend their influence to strengthen the Local Option law by making the county the unit of Prohibition.

During the Prohibition campaign, the saloon, brewery and distilled liquor interests, in effect skulking

behind a bunch of grapes, had let the anti-Prohibition campaign be carried on in the name of the California wine interests. The wine men made no attempt to defend the saloons, but used as their chief indictment against Prohibition the argument that when the saloons become unbearable, The People have their relief in Local Option.

The wine men's announced intention to work for the strengthening of the Local Option law, and for practical regulatory provisions for licensed territory,[103] was consistent with this argument.

But when the Legislature opened, the wine men were not prepared to carry out their announced plan.

Instead of supporting the county unit, their people opposed it. Instead of introducing a bill for practical

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[103] The program announced by the wine interests through their attorney, Mr. Theodore A. Bell, and published throughout the State was as follows:

(1) County Option, except in cities having 5,000 or more inhabitants.

(2) In licensed territory, not more than one saloon for each 1,000 inhabitants, or major fraction thereof, exclusive of table licenses for hotels and restaurants.

(3) Separate licenses to sell malt and fermented liquors, as distinguished from distilled liquors.

(4) No saloon license to be issued to an individual, but only to property, the owner of the property, under heavy bond, to be responsible for the faithful observance of the law.

(5) Unlawful for any wine-maker, brewer, distiller, or wholesaler to have any pecuniary interest in a saloon.

(6) Midnight and Sunday closing.

(7) Anti-treat law.

(8) Drastic laws concerning the sale of intoxicating liquor to minors, women, or to persons in an intoxicated or partially intoxicated condition.

(9) Such limitations and restrictions respecting the granting of licenses in license territory as to forever eliminate dives and deadfalls.

(10) When charges are filed before any magistrate alleging a violation of the liquor law, a jury of twelve men to be drawn from the body of the county to try the case, and, in the event of conviction, the license to be suspended until the judgment shall be reversed or become final, and in case of final judgment of conviction, the license to be forever revoked and no other license to be issued in its stead.

regulation of the saloons, the measure which they stood sponsor for, in the words of the Sacramento Bee, a publication by no means unfriendly to wine interests, would, had it become a law, have placed "municipalities and counties at the mercy of saloons." The bill was introduced by Assemblyman Bismarck Bruck of Napa, and became known as the Bruck bill.

The reason for the wine men's change was common gossip at Sacramento during the first days of the session, and found more or less expression in the public prints. Very frankly the wine men and the distillers differed sharply as to what the provisions of the bill should be, the dealers in the stronger drinks holding out against the proposed saloon regulation on the ground that it would be but an educational stepping-stone toward Prohibition.[104] If we are to judge by the measure eventually introduced as the wine men's bill,

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104 In discussing the division of the liquor interest, C. K. McClatchy, Jr., in The Sacramento Bee, of January 15, 1915, said:

"Then there is opposition on the number of saloons to be allowed. The wine-men seem determined to cut themselves loose from the whisky dealers, for though one general saloon is believed sufficient for every thousand population, the makers of lighter drinks are considering advocating two extra saloons for each thousand population in which nothing but beer and wine shall be sold.

"That, of course, will antagonize the whisky men, so two independent forces will be at work on the Legislature, the wine and beer men for strict regulation and the whisky men for no regulation at all.

"Some of the dealers in the stronger drinks have an argument that is stumping some of their brethren who want strict regulation of saloons. Taking Los Angeles, Seattle and Portland as cities in which there was strict saloon regulation, it is pointed out that these were the ones that went strongly for prohibition.

"Taking San Francisco and Sacramento as examples, with no saloon regulation to speak of, with dives and low saloons to give a horrible example, these towns went against prohibition by two and three to one.

"The conclusion the whisky men are trying to force upon the makers of lighter drinks therefore is that saloon regulation is but an educational stepping-stone to prohibition, and that if a town once has good regulation it quickly desires to step further as to prohibition. The whisky men are decided therefore to play the game for all or nothing."

Assembly Bill 874, the opinion of the makers of the stronger drink prevailed.

So sharp was the criticism of this measure, that after the Constitutional recess, the wine men abandoned it and Mr. Bruck introduced a substitute bill.[105]

This second measure closely followed the plan of the first, and proved no more popular. The anti-saloon element opposed it, while representatives of saloon-keepers, bartenders, and others interested on the liquor side of it, appeared before legislative committees to voice their opposition. The measure was not pressed. It was permitted to remain in committee, although for weeks the anti-saloon element watched it closely.

And then, of a sudden, the anti-saloon element discovered that while their attention had been centered upon the Bruck bill, the liquor interests had been quietly working in the Assembly for the adoption of an amendment to the State Constitution. This amendment had also been introduced by Mr. Bruck. Furthermore, the anti-liquor forces discovered that the liquor interests had practically enough votes lined up to force adoption of the Bruck amendment. The adoption of the amendment by the Legislature and its ratification by the electors would, its opponents contended, have entrenched the liquor interests in California beyond power of dislodgment.

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105 Assembly bill 1520, introduced by Bruck of Sonoma.

CHAPTER XII.

Bismarck Bruck's Amendment.

The measure for which the liquor interests at the 1915 session bent all their energies was the so-called Bismarck Bruck Constitutional amendment.[106] For a considerable time there were very good prospects that it would be adopted.

The amendment provided that "no law or constitutional amendment which shall damage, injure or destroy the value of or prevent the use of any vineyard, wine cellar, hop field, brewery, distillery or other property used in producing, growing or raising grapes, or hops, or in manufacturing or producing wine, beer, malt or distilled liquors, existing at the time of the passage or adoption of such law or constitutional amendment, shall take effect until just compensation shall have been first made to or paid into court for the owner, which compensation shall be ascertained by a jury, unless a jury is waived, as in other civil cases, in a court of record, in such manner as shall be prescribed by law."

In the several debates on the amendment, the fact was brought out that its ratification would not only make it practically impossible to proceed against saloons,[107] but would make California the dumping-place

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106 Assembly Constitutional Amendment No. 40, 1915 series.

107 On this point, Rev. D. M. Gandier in a statement regarding the measure said: "If the amendment were adopted, California would be tied hand and foot by the liquor interests. No Constitu-

for distilleries, breweries and saloons which are being driven out of neighboring States.

The saloon, distillery, and brewery interests, following the policy which they have adopted for their California campaigns, acted in the name of California vineyardists and hop-growers. So far as possible, the large beneficiaries under the amendment, saloons, distilleries, and breweries, were kept in the background. The distillers, brewers, saloonkeepers, spoke in terms of grapes and vineyards.

In the beginning, little publicity was given the amendment. Instead of going to the Public Morals Committee, it had gone to the Committee on Constitutional Amendments. The anti-saloon element was watching the measures sent to the Public Morals Committee. There was no practical way for the anti-saloon people—unless they had a man on the ground to devote

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tional amendment, State law, or local ordinance, which in any way restricted the liquor traffic, could then take effect until every individual, whose business might be directly nor indirectly affected by it, had been brought into court and the amount of damages, if any, which he was to sustain, had been fixed by a jury. You can readily see that this would be an almost endless process. Every time any one was prosecuted for violating the liquor law, there would be a new claimant coming forward asking for damages. His claim would render the law or ordinance inoperative until such claim had been settled in court, and so enforcement of law against the sale of liquor would be impossible. No more vicious interference with the right of the people to restrain or prohibit the liquor traffic could be devised than is proposed in this amendment. Then may I ask why the liquor interests should be singled out for such special privileges? If the power of the people to protect themselves against injury by the liquor traffic is to be taken away, why not take away their power to protect themselves against injury by the sale of opium and other drugs, or by the sale of lottery tickets, roulette wheels, etc.? The courts are now open to liquor dealers on the same terms as to other people. If they can show that any legitimate business is hurt by any law passed they can get damages. On the other hand, if a law merely interferes with profits made by maintaining nuisances, or by working injury to the public, damages cannot and should not be obtained. Liquor dealers now have the same rights in court as other citizens and they should not have any special privileges."

all his time to the work—to keep track on the hundreds of bills which were before the many committees.

The Bismarck Bruck amendment went through the Committee on Constitutional Amendments without much attention being paid to it. Before the anti-saloon people awoke to its importance, it was on the floor of the Assembly ready for adoption.

Had it not been for the vigilance of Dr. D. M. Gandier, who had been absent from the State during the first period of the session, the amendment would probably have slipped through the Assembly and perhaps the Senate. On his return to California, Dr. Gandier uncovered the amendment, and warned the anti-saloon element of the Legislature against it. But it was found that the measure's proponents had more than fifty votes pledged to its support. Fifty-four were enough for its adoption.

When, therefore, the measure came up in the Assembly, its proponents were thoroughly organized with definite plan to force it through. At one time it is claimed they had fifty-three members prepared to vote for it. They needed one more only. Had it not been for the agitation which had been started against the measure, this needed vote would unquestionably have been secured. But, while the opposition to the amendment was not organized, individual members were prepared to oppose it vigorously.

The ratification of the amendment, they pointed out, would be invitation to the brewery and distillery interests which are being driven out of neighboring States to come to California and wait for the State to

compensate them for any losses they may sustain. The proprietors of those breweries and distilleries which contemplate moving into this State, it was shown, will come to California with full knowledge of the agitation here against their business, and the probability that within a few years California will have adopted the same liquor policy as have the States from which the undesired newcomers are moving.

A specific example was given of a certain brewery which was about to be driven out of Washington State, and which was re-establishing its business at San Francisco at a reported cost of over $1,000,000. Under the Bruck amendment, the opponents of the measure pointed out, if the State were so much as to impose a tax that could be construed as damaging this refugee from the North, the brewery company could collect compensation from the State.

The further point was made that were California to adopt such an amendment, the State would be placed in the position of a community advertising that it maintains a free dinner-table for tramps. Such an announcement would bring tramps from all parts of the country. The adoption of the Bruck amendment would bring into California breweries and distilleries from neighboring States which have either declared against their continued operation, or—as is probably the case of California—are about to declare against such operation.

Brown of San Mateo showed:

(1) That the proposed amendment in effect annulled the decisions in which the liquor business has been denied recognition.

(2) That it put a premium on the business. Vineyardists are at present very wisely planting fruit trees between their wine grapes. The adoption of the Bruck amendment would be encouragement for adventurers with a chance of collecting future damages from the State to plant unjustified acreage to wine vines.

(3) That it gives a vested interest in the liquor business which could not in future be annulled even by constitutional amendment.

(4) That it tied the hands of the people of California and of the Legislature.

"Why should you," demanded Brown, "adopt an amendment to give such advantages to the liquor or to any other business?"

Assemblyman Bruck, author of the amendment, in effect admitted all that Brown had said when he explained that its proponents were "merely trying to protect an industry that has been in jeopardy many years."

In a word, the effect of the ratification of the Bruck amendment would have been to take the liquor business out of jeopardy.

Milton Schmitt of San Francisco joined with Bruck in leadership of the fight to secure the measure's adoption. Their evident plan was to force an immediate vote. But here they failed. At no time could they muster the necessary fifty-four votes, and when the vote was finally taken after a day of debate, they could register for the amendment only fifty-one, three less than the number required for its adoption.[108]

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108 The recorded vote on the Bruck amendment was as follows: (Johnson changed his vote from aye to no.)
For the Bruck amendment—Anderson, Arnerich, Ashley, Beck,

The vote was, however, by no means final. Assemblyman George H. Johnson of San Bernardino changed his vote from aye to no and kept the issue alive under a motion to reconsider.

Both sides during the next few days exerted themselves to bring pressure to bear upon doubtful members. One member, at least, who had voted against the amendment, was threatened with loss of position unless he changed his attitude and voted for it.

Another member who opposed the amendment was urged as reason why he should change his vote, "not to forget that the Prohibitionists almost defeated you."

It seems that this particular member was elected over his "wet" opponent by less than ten votes. There were polled for the Prohibition candidate for the Assembly in his district something more than 500. Had there been no Prohibition candidate in the field, these 500 votes would have gone to the member whose constituents were urging him to vote for the Bruck amendment.

And it is interesting to note that had the Prohibition candidate in this instance received a dozen more "dry" votes than he did, the "wet" candidate would have been elected to the Legislature. His "wet" vote would have

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Benton, Boude, Boyce, Bruck, Byrnes, Canepa, Cary, Chenoweth, Collins, Conard, Edwards, L.; Edwards, R. G.; Ellis, Encell, Ferguson, Gebhart, Gelder, Godsil, Harris, Hawson, Hayes, D. R.; Hayes, J. J.; Kennedy, Kerr, Lyon, Manning, Marron, McCray, McDonald, J. J.; McDonald, W. A.; Meek, Mouser, Pettis, Phillips, Prendergast, Ream, Rigdon, Rodgers, Ryan, Salisbury, Schmitt, Scott, C. E.; Sharkey, Shartel, Tabler and Widenmann—50.

Against the Bruck amendment—Avey, Bartlett, Brown, Henry Ward; Browne, M. B.; Burke, Chamberlin, Dennett, Downing, Fish, Johnson, Judson, Kramer, Long, Lostutter, McKnight, Phelps, Quinn, Rominger, Satterwhite, Scott, F. C.; Scott, L. D.; Sisson, Spengler, Wills, Wishard, Wright, H. W.; Wright, T. M., and Young—28.

been cast for the Bruck amendment, and the amendment would have been forced through the Assembly.

Then, in the event of the Bruck amendment going through the Senate, and being ratified by the people at the polls, Prohibition in the State of California would have been made impractical until the whole Nation had gone dry.

The supporters of the Bruck amendment did not confine themselves to bankers and business men in securing outside support for the amendment's adoption. The pressure of labor organizations was employed as well. Assemblyman Downing, the Socialist member, for example, received a telegram from the Los Angeles Building Trades Council and the Los Angeles Labor Council urging that he vote for the amendment. Downing had on the first roll call voted against it. In spite of protests of labor organizations, he continued to vote against it.[109]

Each side suffered losses, but the opposition more than made up what it had lost. When the bill came up for reconsideration, only forty-five [110] voted to give it a

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109 Thus organized labor and organized capital, if we are to judge of the expression of their leaders and organizations, were together in support of this admittedly vicious measure. This curious alliance is not infrequent. They were together, for example, in opposition to the San Francisco Graft Prosecution. (See "The System as Uncovered by the San Francisco Graft Prosecution.") But this expression of organized capital and organized labor in opposition to that which is wholesome, and in favor of that which is bad, cannot be held to reflect the attitude either of the individual capitalist or the laborer. The self-seeking few of each group control and compel policies which are neither expressive of the attitude of the group for which they speak, or for the group's best interests. The allied support of leaders of both groups of such measures as the Bruck amendment, and opposition of such movements as the San Francisco Graft Prosecution, is significant.

110 The vote to reconsider the Bruck amendment was as follows:

For reconsideration of the Bruck amendment—Anderson, Arnerich, Ashley, Beck, Benton, Boude, Boyce, Bruck, Burke, Byrnes, Canepa, Chamberlin, Chenoweth, Collins, Edwards, R. G.; Ellis,

second hearing, only four more than the majority of forty-one required.

The good faith of those who contended that the amendment was for the protection of vineyardists alone was put to the test by Assemblyman L. D. Scott of Fresno.

Mr. Scott offered an amendment restricting the provisions of the measure to vineyards devoted to the growing of wine grapes, and providing that the losses which grape growers may sustain under any future dry legislation shall be determined by the State Railroad Commission.

Those who were supporting the Bruck measure voted against the Scott proposal and succeeded in defeating it.

When the measure came up for final passage, Assemblyman Downing offered an amendment to provide that property injured by adverse anti-liquor legislation might be purchased by the political subdivision in which it is located "at the last assessed valuation fixed for purpose of taxation." This was voted down by a vote of 11 to 47.[111]

Encell, Ferguson, Gebhart, Gelder, Godsil, Hawson, Hayes, D. R.; Hayes, J. J.; Kennedy, Kerr, Long, Manning, Marron, McCray, McDonald, W. A.; McPherson, Meek, Mouser, Phillips, Prendergast, Rodgers, Ryan, Salisbury, Satterwhite, Schmitt, Scott, C. E.; Scott, F. C.; Sharkey and Widenmann—45.

Against reconsideration of the Bruck amendment—Bartlett, Brown, Henry Ward; Browne, M. B.; Dennett, Downing, Fish, Harris, Judson, Kramer, Lostutter, McKnight, Phelps, Rigdon, Rominger, Scott, L. D.; Sisson, Spengler, Wills, Wishard, Wright, H. W.; Wright, T. M., and Young—22.

111 The vote on Downing's first proposed amendment was as follows:

For the amendment—Brown, Henry Ward; Browne, M. B.; Burke, Downing, Gelder, Hawson, Lostutter, Phelps, Scott, L. D.; Spengler and Young—11.

Against the amendment—Anderson, Bartlett, Beck, Benton, Boude, Boyce, Bruck, Byrnes, Canepa, Cary, Chamberlin, Cheno-

Downing offered a second amendment which provided that all workingmen thrown out of employment as a result of any measure affecting the liquor business should be paid at the rate of $3 a day for one year.

This sort of "compensation" did not appeal very strongly to those who were insisting upon "compensation" for brewer, distiller and winemaker. But Downing contended that the employee was as much to be considered as the employer.

"If we are to consider legislation of this kind at all," he insisted, "I submit to you that the workman who loses his job, which is his all, is entitled to as much consideration as the employer."

Unfortunately, the roll was not called on this second Downing amendment. It was defeated with an overwhelming chorus of "noes."

When put to final passage, the Bruck amendment was defeated by a vote of 45 to 30,[112] a two-thirds vote of fifty-four being required for its adoption.[113]

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weth, Collins, Edwards, L.; Edwards, R. G.; Ferguson, Fish, Gebhart, Godsil, Hayes, D. R.; Hayes, J. J.; Johnson, Kennedy, Kerr, Kramer, Long, Manning, McCray, McDonald, J. J.; McDonald, W. A.; McKnight, Meek, Mouser, Pettis, Phillips, Ream, Rigdon, Ryan, Salisbury, Satterwhite, Schmitt, Scott, C. E.; Sharkey, Tabler, Widenmann, Wishard and Wright, H. W.—47.

112 The vote by which the Bruck amendment was finally rejected was as follows:

For the Bruck amendment—Anderson, Arnerich, Ashley, Beck, Benton, Boude, Boyce, Bruck, Byrnes, Canepa, Cary, Chamberlin, Chenoweth, Collins, Conard, Edwards, L.; Edwards, R. G.; Ellis, Encell, Ferguson, Gebhart, Godsil, Hawson, Hayes, D. R.; Johnson, Kennedy, Kerr, Lyon, Manning, McCray, McDonald, J. J.; McDonald, W. A.; Mouser, Pettis, Phillips, Ream, Rodgers, Ryan, Salisbury, Satterwhite, Schmitt, Scott, C. E.; Sharkey, Tabler and Widenmann—45.

Against the Bruck amendment—Avey, Bartlett, Brown, Henry Ward; Browne, M. B.; Burke, Downing, Fish, Gelder, Harris, Judson, Kramer, Long, Lostutter, McKnight, McPherson, Meek, Phelps, Quinn, Rigdon, Rominger, Scott, F. C.; Scott, L. D.; Shartel, Sisson, Spengler, Wills, Wishard, Wright, H. W.; Wright, T. M., and Young—30.

113 Since their defeat in the Legislature, proponents of the Bruck amendment have been considering plans for putting such a

measure on the ballot by the Initiative. Of this proposed move, the Sacramento Bee (issue of July 3, 1915) says:

"The Board of Directors of the California Grape Protective Association definitely decided at a recent meeting to place an Initiative Constitutional Amendment upon the ballot, providing for compensation for grape-growers, wine-makers, brewers, hop-growers and all others affected by the passage of any law or Constitutional Amendment in any way damaging their business or reducing the value of their plants or property.

"Such a Constitutional provision would be unjust. It is generally recognized that The People have the social right as well as the legal power to regulate, restrict or prohibit, without compensation, all forms of the manufacture and sale of alcohol.

"But the proposed amendment would tie the hands of State and local government against correction of any and all abuses pertaining to the traffic in alcoholic products. For no matter how bad conditions might become, no regulatory nor prohibitory law could be passed that did not first compensate the doer of evil.

"The brewers, winemen and grape-growers had much better place their faith in the sense of justice of The People of California than in a Constitutional amendment of this sort, the attempt to carry which would but stir up a wave of resentment.

"The time and effort would be far better expended in a campaign of education, with statistics and arguments, in an endeavor to persuade the voters of California against the injustice, unwisdom and fanaticism of prohibition."

CHAPTER XIII.

The "Dry Zone" Bill.

The fight to make the present University "Dry Zone" law general, which was won in the 1913 Senate only to be lost in the 1913 Assembly by narrow margin, was resumed at the 1915 session.[114]

For more than forty years, the State University has enjoyed the benefit of an area extending for one mile on each side of the campus in which no saloon is tolerated. In 1909, a similar "dry zone," but larger by a half mile each way, was provided for Stanford University.[115] The extra half mile was added for the frankly expressed purpose of reaching certain saloons at Menlo Park, largely patronized by Stanford students. The voters at Menlo Park were overwhelmingly against closing these saloons. The only way to close them was by State enactment. They were, against the wishes of a large majority of the electors of San Mateo county, closed by State enactment.

At the 1913 session, Senator Edwin M. Butler of Los Angeles introduced the so-called "University Dry Zone bill." This measure extended the provisions of the almost half-century-old law to all institutions of

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114 For the extraordinary opposition given the Butler Dry Zone bill at the 1913 session, see "The Story of the California Legislature of 1913," Chapter XXIII.

115 See "Story of the California Legislature of 1913," page 296, for account of conditions which caused the Legislature to establish the Stanford University "Dry Zone."

collegiate rank. This included St. Ignatius College at San Francisco, The University of Southern California, Santa Clara University, and the University at Redlands. The bill was finally amended, however, to exclude St. Ignatius from its provisions as the San Francisco members were fanatically opposed to any interference with San Francisco saloons.

But in the Assembly, opponents of the measure, with the practically solid support of the San Francisco members in that body, attacked the bill on the ground that it was unfair that San Francisco should be excluded from its provisions. These opponents did not offer to amend the bill to include San Francisco. But they used the pretext that San Francisco was not included to defeat the bill. The measure was, largely with San Francisco votes, defeated by narrow margin.

The contest over this 1913 bill incidentally brought out information of conditions in the vicinity of some of the State Normal schools, notably that at Chico. The opinion grew that all students attending school away from home should be accorded the same protection as is given the students at the State University and Stanford.[116] When, therefore, the 1915 bill was drawn, State Normal schools were included with universities in its provisions. The measure was introduced by Senator Butler, the author of the 1913 bill.

The liquor interests fought this measure in connection with their campaign against the proposed amendment of the Local Option bill to make the county the unit of Prohibition instead of the supervisorial district.

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[116] See footnote 309, page 309, "Story of the California Legislature of 1913."

The same lobby appeared at Sacramento against both bills.

At the hearings on the Butler bill, representatives from the various communities affected appeared to urge its passage. These representatives went to Sacramento at their own expense, in the interest of their home communities, and of the young men and women who are obliged to leave the influence of the home to complete their education.

The opposition to the bill was carried on in the name of the Allied Industries of California. The same organization directed the fight against the Local Option bill. The Allied Industries' paid representative in both cases was Mr. Max Kuhl of San Francisco.

Among those who appeared at the principal committee hearings to speak in favor of the bill was Professor R. L. Green of Stanford.

Professor Green had just been appointed by Governor Johnson to the Board of Trustees of the San Jose State Normal School. He appeared on behalf of the San Jose school.

"The State has an interest in these schools," said Professor Green. "Coming from Stanford as I do, and knowing the benefits that have resulted from the 'dry zone' around that institution, I feel that the protection which is enjoyed by Stanford and the State University should be extended to the State Normal schools."

Rev. H. H. McQuilkin of San Jose brought the message of President M. A. Dailey of the San Jose State Normal school endorsing and urging the passage of the measure.

Dr. McQuilkin showed that San Jose Normal students on the way to the postoffice, station, or business districts, were compelled to pass saloons and the groups of loafers who cluster thick about saloon doors.

"I believe," said Dr. McQuilkin, "that the State owes it to these students and to their parents to protect them against such experiences. I believe it to be clearly within the province of the State to protect its own institution."

Mrs. H. C. Compton and Samuel J. Munn of Chico told of the extraordinary conditions at Chico, where a nest of saloons within the city limits is able to defy a district which has voted against the saloons by over 1000 majority. They declared the influence of these saloons upon the youth of Chico to be bad, and their effect upon the Normal School anything but beneficial.

E. C. Eaton of Santa Clara protested against the State discriminating against Santa Clara, in providing a "dry zone" for the University of California and for Stanford, while making no such beneficial provisions for the University at Santa Clara.

Mr. Kuhl's argument against the bill was based on the premise that it is wrong to assume that the liquor traffic is *ipso facto* destructive of our youth. The Butler bill, he claimed, "almost means Prohibition for California." He held that "this is no place to argue for a bill which is materially the same as that which The People have voted down." In this Mr. Kuhl was referring to the Prohibition measure defeated at the 1914 election.

D. M. Gandier of the Anti-Saloon League showed that during the 1914 campaign the saloon men had hid

behind the grape men, that the defeat of the Prohibition measure was not on the saloon issue but on the vineyard issue. Far from meaning "almost Prohibition for California," Dr. Gandier demonstrated that outside San Francisco, should the Butler bill become a law, not more than 125 saloons would be closed. At San Francisco, about 500 saloons, according to Mr. Kuhl, would be closed. But as 1700 would remain, with an additional 2200 places licensed to sell liquor in sealed packages, it was quite evident that San Francisco would not suffer for want of opportunity to purchase intoxicants.

Mr. Gandier contended further that the establishment of "dry zones" around schools attended by non-resident students is the well-settled policy of the State. He showed the distinction between schools attended by non-resident students and schools which are attended by resident students who enjoy the protection of home surroundings and influences.

With the exception of Senator Flaherty of San Francisco, the committee was unanimous in sending the bill back to the Senate with the recommendation that it do pass.

When the bill came up in the Senate for final passage, Senator Wolfe of San Francisco led the fight against it. Wolfe's speech was not new. It was the same sort of speech he had made against the 1909 Local Option bill, and two years later against the 1911 Local Option bill.

Wolfe's criticism of those who were supporting the Butler bill was, too, practically the same criticism he had in 1909 and 1911, directed against the supporters of the Local Option bill. The replies made in 1909 and 1911

to his attacks upon the supporters of Local Option could very well have been made to his attacks in 1915 upon the supporters of the Butler bill.[117]

Wolfe had one argument, however, which he had not had four years before. He made much of the fact that Prohibition at the 1914 election had suffered overwhelming defeat. He argued that since The People had rejected Prohibition, it was unreasonable for the Legislature to impose Prohibition upon any community. But unfortunately for Wolfe's argument, the saloon at the gates of the State's schools, and not Prohibition, was under discussion.

Senator Wolfe held that the saloonkeepers of San Francisco are high-type gentlemen, good and useful citizens.

"San Francisco," he insisted, "is taking care of this question herself. San Francisco is not asking this Legislature to regulate its morals. No other city of its size in the whole world is as moral as is San Francisco."

Wolfe stated that provisions are made for the protection of the young women at San Francisco against scoundrels who seek them out, by placing policemen at the school doors. The danger against which this provision is made, he held, is not the danger of the saloon.

"Let us," said Wolfe in conclusion, "have peace and rest on this question of liquor."

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117 After Wolfe's speech against the 1911 Local Option bill, Senator Estudillo of Riverside replied in part as follows: "Some reverend gentlemen have been accused of lobbying for this bill. These men are citizens of this State. They have as much right to speak for this bill as representatives of the Royal Arch or the liquor interests have to speak against it. When the measure was pending before the Assembly I saw representatives of the liquor interests prancing about the floor against it." See "Story of the California Legislature of 1911," pages 223-224.

Senator John N. Anderson replied most effectively to Wolfe.

Anderson denied that the saloon can be defended on any ground.

"When Senator Wolfe," said Anderson, "states that the saloons of San Francisco are respectable, he states what is absolutely not true. As 'for peace and rest on the saloon question,' we shall not have peace socially or morally until we get rid of the accursed saloon. As for providing police protection for the young women who attend these schools against worse things than the saloon, let me tell you that every miscreant who hangs around the schools to waylay young women comes out of the saloons. In this 'Dry Zone' measure we are endeavoring to protect our boys and girls by keeping the saloon and allied evils as far from them as possible. Our boys and girls are entitled to greater consideration than are the beneficiaries of the infamous saloon business."

Senator Anderson contended that it would be well for the young women attending the State Normal school at San Francisco if the saloons, which are the congregating places of miscreants who make necessary the placing of policemen at the doors of the schools for the protection of the women students, could be kept a mile distant from the school.

Another point made by the opponents of the bill was that its passage was unnecessary, for the reason that the public has its remedy in the Local Option act.

This is not true at all of San Francisco.

The San Francisco delegation in the 1911 Legisla-

ture was powerful enough to have San Francisco excluded from the provisions of Local Option law. The act does not apply to San Francisco at all.

Nor does it apply to any university or normal school zone. Were the "mile zone" around Stanford or Santa Clara University, or the Chico State Normal school, or the University of California a unit of prohibition, the people of those zones would vote out the saloons overwhelmingly. But the people are not given that opportunity. Under the Supervisorial-unit plan of Local Option, a bad spot is left in the mile zone of each institution—Menlo at Stanford, Santa Clara town at Santa Clara University, Oakland in the case of the State University, and the small area of the City of Chico in the case of the Chico State Normal. Each of these bad spots, beyond the reach of the present Local Option law, is, where the State does not interfere, able to maintain a nest of saloons to the detriment of the school, and of the community. The State has interfered in the case of the State University, of Stanford, and of the University Farm at Davis. The proponents of the Butler bill asked that the State interfere in the case of other institutions attended by students from a distance.

And the fact should not be lost sight of that the very forces which in 1911 prevented the county-unit of prohibition being incorporated in the Local Option law, and appeared at the 1915 session to prevent the county unit being substituted for the Supervisorial district unit, were the most persistent in insisting that the public has its remedy in Local Option. With the county unit, no saloon could exist within twenty-five

miles of the Chico State Normal school, nor within three miles of the University of Santa Clara.

The California Legislature is ever considerate of San Francisco vice, which means that the Legislature is ever considerate of the politically-important exploiters who fatten off San Francisco vice.

The argument against the "Dry Zone" bill which seemed to appeal to some of the members strongly was that it would be wrong to close the saloons in the vicinity of the San Francisco State Normal school by act of the Legislature. Senator Luce of San Diego, without admitting such objection to have merits, showed that it could be met by excluding San Francisco from the provisions of the bill.

Senator Luce pointed out that whatever might be said of the situation at San Francisco, the situation at Chico and at Santa Clara [118] warranted the passage

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118 Practically the same position taken by Senator Luce as regards the University of Santa Clara, and the Chico State Normal School, was taken by Lieutenant-Governor Eshleman. In a letter to Hon. A. J. Wallace giving his reasons for voting against the Butler "Dry Zone" bill, Governor Eshleman says: "I believe by the most arbitrary 'dry' or the most arbitrary 'wet' it will be conceded that it is not fair in the interest of either contender to fix a general rule for all communities and then depart from and violate this rule as regards certain communities either in the interests of the 'wets' or the interest of the 'drys.' If, however, there are special circumstances which apply to a particular community and thereby take this community out of the general rule, then the State is justified in applying a different rule to such community than that which applies to all other communities. But in the absence of such special conditions, the State breaks its faith when it applies one rule to one community and a different rule to another. I conceded without argument that the presence of the University of California with the peculiar conditions there existing, puts the territory around that institution in a different condition than that which generally prevails. I also concede the same to be true as regards Stanford University. I likewise concede that the same was shown to be true as regards Santa Clara College, and I also concede that there was some argument to the same effect as regards Chico, although not nearly so persuasive. However, not one fact was adduced nor one argument presented on the floor of the Senate which led me to believe that the presence of the normal school in the City of San Jose and in the City

of such a bill. He accordingly offered amendments to limit the provisions of the measure to cities of 20,000 inhabitants or less. This would have excluded San Francisco and San Jose.

And here was the bad faith of the San Francisco delegation shown. So confident were the bill's opponents that they could defeat the measure if San Francisco were not excluded from its provisions, that the entire San Francisco delegation, and most of those who were standing with the San Francisco delegation, voted against the amendment. The amendment was defeated with their votes.[119]

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of San Francisco produced one single additional argument against the saloon that would not have existed had the normal school not been there. In short, not one of the proponents of this bill submitted a single valid argument in favor of closing the saloons of San Jose and the saloons of San Francisco that was not directed with equal force against all saloons. They did not make of these communities a special class which warranted the Legislature in departing from the uniform rule that it had applied. In other words, it was sought by this bill to close up the saloons of San Francisco and San Jose against the will of the majority of the electors of those communities and without any special reason for overriding the will of such electors such as exists in the City of Berkeley, the City of Palo Alto and the City of Santa Clara."

Governor Eshleman, it may be added, was not in the Senate Chamber during the entire discussion on the Dry Zone bill. It is unfortunate that he did not hear Senator Anderson's reply to Wolfe, and the statement of conditions in the vicinity of the State Normal School at San Jose.

119 The Fresno Republican in its issue of April 1, in commenting upon this vote of the San Francisco delegation, said:

"But the attitude of the San Francisco delegation to the Senate in fighting the amendment which would have exempted San Francisco and Los Angeles from the operation of the bill showed plainly that they were acting not in the interest either of morality or of their city, but as representatives of the liquor business of the State. The objection to the Mile Limit bill, as a State measure, lies in its application to San Francisco and Los Angeles, and not to Fresno, Chico, San Diego and the smaller cities that have normal schools. San Jose lies above the proposed limit, 20,000. There are no saloons within a mile of the Fresno Normal School and are not likely to be under local option. The other normal schools of the State might be proper subjects for the operation of this measure, if local officials take such little interest in the schools that they permit saloons to operate near the grounds.

"But when it seemed possible to have the bill amended to exempt all cities above 20,000 from its operation, the San Fran-

There was some tendency to criticize Senator Butler and four other of the bill's supporters for voting against the amendment. But Senator Butler's vote is readily accounted for.

Senator Butler, who during his service in the Legislature has sponsored many good bills, has thereby made himself particularly objectionable to the San Francisco underworld. Threats had been made against Senator Butler's life, if the "Dry Zone" bill became a law with its provisions applying to San Francisco.[120] The effect

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cisco delegates voted solidly against it. They were not interested in saving the saloons in the business district of San Francisco that happen to lie within a mile of the San Francisco Normal. They were afraid that with San Francisco and Los Angeles excepted, the bill might pass."

120 The following, one of several of like import, is a letter received by Senator Butler two days before the Dry Zone bill came up for final passage:

"San Francisco, Cal., March 27, 1915.

"Mr. Butler, Sacramento, Cal.

"Dear Sir:—I have been a resident of San Francisco almost 40 years. I am now over 63 years old, and have a wife and 7 children, the oldest being 19 and the youngest 2. I have been a saloon keeper for over 37 years. I never was arrested in my life, and I never had a disturbance in my place of business. I have been a good citizen, have paid my taxes and raised and educated my family. I have served on jury duty many times, and have been a good and faithful citizen in all respects.

"But I have been driven almost insane by the constant agitation of you politicians on the liquor question, and I tell you that if your bill should go through it would make a beggar of me in my old age, with a growing family on my hands, and I will not stand it. And I tell you if you do this wicked thing I will take the law in my own hands and I will kill you as sure as the sun rises. You are driving me crazy but not too crazy to get you and I don't care what becomes of me after that. I have never broken a law of our country (I am an American) in my life. But if the State of California will not protect me against any such skunks as you, I repeat I will take the law into my own hands. I've stood all I'm going to stand. My father fought for the Union and was twice wounded, and I fought the Apache indians over 40 yrs. ago when I was in the U. S. army, from which I have honorable discharge, and I will allow no such skunk as you to rob me and my large family of our living and turn us all over to beggary. I repeat it—don't mistake me—if you do, I will kill you as dead as door nails, for you are slow but sure driving me insane. I am an old man and it's too late to begin over again with 7 children on my hands—oldest boy only 12.

"Yours truly,

"A saloon keeper and a Good American Citizen."

of these threats was to make Senator Butler insistent that the bill apply to San Francisco. He accordingly voted against the Luce amendment, as did four other supporters—Anderson, Brown, Kehoe and Purkitt. But these five could not have defeated the amendment had the San Francisco delegation voted for it.

The Luce amendment was defeated by a vote of 15 to 23.[121] Had the seven San Francisco members voted for it, the vote would have been 22 for the amendment to 16 against. The Dry Zone bill went to final roll call with San Francisco included within its provisions, because the San Francisco delegation had voted against excluding San Francisco. Furthermore, the Senators from outside San Francisco who usually voted with the San Francisco group on moral issues, voted with San Francisco on this issue also.

After the defeat of the Luce amendment, consideration of the original bill was resumed. Senators Butler, Brown, Jones and Benson spoke strongly in its favor. Jones in particular showed the bad faith of the San Francisco delegation in voting down the Luce amendment.

"If they thought the bill could carry," he said, "they would be making most frantic efforts to secure the adoption of amendments excluding San Francisco from its provisions."

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121 The vote by which the Luce amendment to the Butler Dry Zone bill was defeated was:

For the amendment—Senators Benedict, Benson, Breed, Campbell, Carr, Cogswell, Duncan, Flint, Irwin, Jones, King, Luce, Maddux, Mott and Thompson—15.

Against the amendment—Senators Anderson, Ballard, Beban, Birdsall, Brown, Butler, Cohn, Crowley, Finn, Flaherty, Gerdes, Hans, Kehoe, Lyon, Owens, Purkitt, Scott, Shearer, Slater, Strobridge, Stuckenbruck, Tyrrell and Wolfe—23.

Senator Jones told of the conditions at Stanford University before the Stanford "dry zone" was established, and cited cases of brilliant students who had been ruined by the drink habit acquired during their student days.

"Few of us," said Senator Jones, "would vote to do away with the 'dry zone' at Stanford and that at our State University."

Senator Jones also told of conversations he had had with the authorities of Santa Clara University, and of the close watch the University people are obliged to keep over the saloons which are situated less than eighty feet from the gates of the Santa Clara campus.[122]

When the measure came to final vote, the Senate divided upon it evenly, nineteen voting for and nineteen against it.[123] Twenty-one votes were required for the bill's passage. Two members, Rush and Strobridge, were absent. If one of them voted for the bill and one against, the vote would be a tie. This would give

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122 The opponents of the Butler "Dry Zone" bill intimated constantly that the authorities of Santa Clara University were opposed to its passage. No baser libel was ever uttered. "When we consider," says the San Francisco Monitor, official organ of the Archdiocese of San Francisco, in its issue for November 30, 1912, "how saloons flock thick around the vicinity of our colleges and universities we know of one Catholic institution (Santa Clara University) that is harassed and annoyed by no less than thirteen grog-shops all within 300 feet of its doors—then we begin to realize how earnestly some of us grow to wish for an opportunity to vote the saloon out of our neighborhood."

123 The first note on the Butler Dry Zone bill was as follows:

For the Butler bill—Anderson, Benedict, Benson, Breed, Brown, Butler, Campbell, Carr, Chandler, Cogswell, Duncan, Jones, Kehoe, King, Luce, Maddux, Mott, Purkitt and Thompson—19.

Against the Butler bill—Ballard, Beban, Birdsall, Cohn, Crowley, Finn, Flaherty, Flint, Gerdes, Hans, Irwin, Lyon, Owens, Scott, Shearer, Slater, Stuckenbruck, Tyrrell and Wolfe—19.

Butler changed his vote from aye to no that he might secure reconsideration.

Lieutenant-Governor Eshleman the deciding vote. As the general impression was that the Lieutenant-Governor advocated such legislation, the friends of the measure had no doubt as to how Lieutenant-Governor Eshleman would vote were the question to be put to him. Butler changed his vote from aye to no, and gave notice that on the next legislative day he would move to reconsider the vote by which the bill had been denied passage.

The measure came up for reconsideration the next day. Strobridge and Rush, who had not voted the day before, were found to be against the bill. But the methods employed by the opposition to secure the measure's defeat had exasperated Irwin, who had the day before voted against the measure.

"The San Francisco delegation," announced Irwin, "had their chance yesterday to make this measure a fair bill. The San Francisco delegation refused to accept the opportunity. I am not going to carry water for them. I am going to vote for this bill."

And Irwin did vote for the bill.

This made the vote 20 to 20,[124] giving Lieutenant-Governor Eshleman opportunity to cast the deciding vote. His word "Yes" would have meant the sending of the bill to the Assembly for probable passage, and

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[124] The vote by which the Butler Dry Zone bill was finally defeated was:

For the bill—Anderson, Benedict, Benson, Breed, Brown, Butler, Campbell, Carr, Chandler, Cogswell, Duncan, Irwin, Jones, Kehoe, King, Luce, Maddux, Mott, Purkitt, Thompson.

Against the bill—Ballard, Beban, Birdsall, Cohn, Crowley, Finn, Flaherty, Flint, Gerdes, Hans, Lyon, Owens, Rush, Scott, Shearer, Slater, Strobridge, Stuckenbruck, Tyrrell, Wolfe and President Eshleman.

the ending of the abuses of the liquor traffic in the vicinity of the State's principal schools.

And Lieutenant-Governor Eshleman voted NO.[125]

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125 Governor Eshleman had printed in the Senate Journal a statement of his reasons for his vote. The statement was as follows:

"When the presiding officer of the Senate exercises his prerogative conferred by the Constitution and votes on a measure, he becomes for the time being a legislator and is in no different position from the other members of the Senate. I, therefore, deem that I have the same privilege to explain my vote as have the members of the Senate. I believe this bill is a bad and unfair measure. I am in thorough sympathy with its alleged intent, but I am not in sympathy with the method of attempting to carry it out. I will not countenance an unfair means even to accomplish a good thing.

"By enactment of the Legislature it was left to the communities to deal with this question as they saw fit. The fundamental considerations of popular government require that the majority in each community control and the law be of uniform application. If there be some strong and controlling reason why a different rule should apply to one community than another such reason would justify the dominant authority in the State in taking from such community the rights that are exercised by other communities in similar circumstances. No such controlling reasons exist in the case before this Senate.

"Having provided a way for eliminating the saloons in the unit adopted by the Legislature, that method should be followed unless the Legislature or the people themselves apply a different rule either by eliminating them all or by taking from all communities the right to decide. But when the right to decide is reposed in a constituency, that right to decide carries with it the right to decide wrongly, and it is more important that a constituency have the right to decide and that their will be not thwarted, than that any particular reform be consummated. In the present case, as I have already said, regardless of the alleged intent of this bill there has been nothing disclosed to me which leads me to believe that a different rule should apply to the communities here involved than to the other communities of the State. I put the test upon myself that I put upon the one opposing me, and if the means resorted to by the one opposing me would be decided unfair means by me, when my opponents are seeking to perpetrate what I consider a wrong, then the same means employed by me to bring about what I consider a right are just as reprehensible. There is not an advocate of prohibition upon the floor of this Senate, in my opinion, who would not raise his hands in holy horror if the liquor interests resorted to the same subterfuge in making dry territory wet in defiance of the local option law as is being used here in an attempt to make wet territory dry, and I believe his indignation would be justified. The fact that the liquor interests have resorted to unfair means in the past, and no doubt some of them at least will do so in the future, does not in the least change the situation nor relieve us from the necessity of dealing with scrupulous fairness. Otherwise we are but Pharisees.

"I have no misconception of the effect of the emergency which makes it necessary for me to decide this question, but I have no apology to make. Simply I desire to have my reasons set forth. I am at least justifying and satisfying myself. It is to be regretted if I do not satisfy others, but that is a matter over which I have no control."

Technically speaking, Lieutenant-Governor Eshleman's negative vote did not defeat the "Dry Zone" bill. Twenty-one votes were required for its passage. Twenty votes only had been cast for it. Lieutenant-Governor Eshleman was not required to vote, but it was his constitutional privilege to vote if he elected so to do. His negative vote did not change the result. His affirmative vote would have put the bill through the Senate, giving it the twenty-one votes necessary for its passage.[126]

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126 The attitude on Governor Eshleman's vote, of informed persons who stand for clean conditions in California, was expressed in a letter from former Lieutenant-Governor A. J. Wallace to Governor Eshleman. Governor Wallace's letter was in response to a letter from Governor Eshleman. Governor Wallace said:

"Hon. John M. Eshleman, Lieutenant-Governor, Sacramento, California:—Your letter of April 7th is at hand. As you indicate, it is perhaps more general than personal, but it is alive and interesting. You are not greatly disturbed by criticism. You expected it. The question is not did you vote on the 'Zone' bill as I might have voted, or as I would have had you vote, but did you vote your judgment and your conscience? The answer is you did, and men and women generally will credit you with so doing, as I certainly do.

"And now, very frankly, I wish you had seen your way clear to cast your vote for the 'Dry Zone' bill. Your letter indicates that you reached the conclusion that the intent of the bill was simply to close a large number of saloons that couldn't be closed by a local vote, and that their relation to certain schools was used as an excuse for this action. I venture to think that you were in error and that the real purpose of the bill was in harmony with its declared purpose. The type of men who were the sponsors of this measure does not suggest pretense in its purpose, and the character of its upholders in the State Senate compels conviction in favor of its straightforwardness.

"The principle was not new. It is already established and recognized by the State. It was applied in the mile-zone around the State University and the larger zones around Stanford and Davis. This 'Zone' bill gave the principle of protection against liquor influences a wider application. The need may be greater at Berkeley and Stanford, as the institutions are larger, but the need exists in the cases of the other schools and the application of the already established principle to Santa Clara College, and our Normal schools made an appeal that many recognized as a reasonable and not a revolutionary advance.

"You have a keen instinct for fair play, and when you once got the view that this 'Zone' bill was aimed to do by indirection what could not be done by a direct method, you rebelled. Perhaps in another frame of mind you might have reasoned that this same principle of fair play called for protection of the student at Chico and Santa Clara just as truly as the student at Berkeley or at Stanford.

"You take the cases of San Jose and Pasadena and claim that

it is as wrong to make San Jose dry contrary to the wishes of its citizens as it would be to make Pasadena wet contrary to the views of its citizens. I do not agree with that conclusion. It accords undue respectability to the liquor traffic. Our nation, through its Supreme Court, declares 'there are few sources of crime and misery equal to the dram shop.' And our State Supreme Court says the saloon business is 'a business in itself dangerous to the morals and good order of the city.'

"Because of these declarations and the inherent truth contained in them it cannot be as far wrong to throw this traffic out of a community where the people want it in as it would be to put that traffic into a community where the people have declared that they want it out.

"Further, as we are considering this matter from the viewpoint of protection for our schools, you will find it much easier to prove that the San Jose schools would be benefited by the removal of the liquor traffic from their vicinity than you will to prove that the schools of Pasadena would be benefited by the establishing of the liquor traffic in their vicinity.

"Your position that true democracy is recognized in our local option law is correct, but I hold the view that it was in harmony with the essential principles of this very democracy, under a different mode of operation, that our legislators, by legal enactment, provided protection for the thousands of our young people who are separated both from the safeguarding of the home and the protection of the home ballot when in large numbers they are gathered together to secure an education. Our self-governing principles protect the family as well as the units at its head, and protect the members of that family in the school as truly as in the home. Surely, then, the rights of democracy were not invaded by enlarging the numbers of those protected, as would have been the case if this 'Zone' bill had become a law.

"I assume that you have sought my views because you know of my very high regard for you personally. This letter gives those views and makes clear that I do not agree with your conclusions, but this letter is at fault if it does not also make clear that I still hold you in very high esteem. Very truly yours, A. J. Wallace."

CHAPTER XIV.

Move to Restore Racetrack Gambling.

The three-cornered fight in the 1915 Legislature between a group intent upon bringing racetrack gambling back into California, a handful of sportsmen to revive legitimate horse-racing under State supervision, and a very determined citizenry to prevent any legislation that would tend toward restoration of gambling hells of the Emeryville type, developed into one of the most interesting contests of the session.

Those who have followed the activities of the California Legislature for the last quarter of a century will recall that up to the 1909 session, no progress was made against the gamblers.

The manner in which the Senate Public Morals Committee suppressed legislation aimed at this form of gambling became a scandal. It was not until the 1909 Legislature convened that any practical gains against the gamblers were made. And the success of the anti-gambling element that year was due very largely to the cooperation of a group of horsemen who had refused to subscribe or to submit to the methods of the gambling element in control at the principal tracks of the State. Some of these horsemen-protestors against the abuses at Emeryville, had found themselves arbitrarily barred from the track. Opinion grew among them that to make horse-racing reputable, book-making and pool-selling must be stopped. They accordingly

joined with the "reformers" to suppress gambling at the tracks.

The man who had most to do with the passage of the anti-Racetrack Gambling bill in 1909, probably, was Mr. C. T. Boots, breeder of some of the finest thoroughbreds that ever brought reputation to California stock farms.

Mr. Boots remained at Sacramento during the 1909 session at his own expense. Much of the data which was used with telling effect against the pro-gambling group was furnished by Mr. Boots and his associates. Thus assisted, the normal citizenry of the State were able to secure the passage of the Walker-Otis bill. This measure outlawed racetrack gambling.

But the assisting horsemen did not aim to outlaw horse-racing. They proposed that the racing game be placed in the hands of a racing commission; that bookmaking and pool-selling be eliminated; that the grip of the Emeryville group which had brought horse-racing into disrepute, be broken.

However, gambling continued at Emeryville in spite of the Walker-Otis law. In one of those "test cases" which the underworld element finds so effective in blocking the expressed will of The People, a ruling was secured from the Supreme Court under which the gamblers were able to continue their activities.[127]

At the 1911 session of the Legislature, a second anti-Racetrack Gambling measure was passed. This 1911 law was couched in terms so plain that a way-

127 See "Story of the California Legislature of 1911," page 182, for account of how this ruling was employed by the gamblers to get around the plain provisions of the Walker-Otis law.

faring man, though a justice on the Supreme Bench of the State of California, need not err therein as to The People's meaning. The People of California didn't want racetrack gambling. They so expressed themselves in interpretation-proof language. Under this 1911 act, except in communities such as San Francisco, where underworld and corporation control blocks enforcement of the law, pool-selling and book-making came to an end.

In 1912, the gambling element appealed to The People for restoration of racetrack gambling by means of Paris mutuels and Auction pools. Their appeal was characteristic.

By misrepresentation in many instances, and deliberate forgery in others, they succeeded in getting an initiative petition bearing a sufficient number of signatures to get their pro-gambling bill on the ballot.

The measure was rejected at the polls, however, with a majority of over 203,000 against it.

The gamblers made no attempt to regain their foothold through the 1913 Legislature. But at the 1915 session they renewed their efforts to make racetrack betting by the Paris mutuels and Auction-pool systems legal.

Quite independent of this move, C. T. Boots and other horsemen who had assisted in the passage of the Walker-Otis bill six years before, went before the Legislature asking for establishment of a Horse-racing Commission to make California horsemen independent of the group that dominated the Emeryville track.

But neither group made headway. The verdict of the decent citizenry of the State, as represented in

Senate and Assembly, was overwhelmingly against both those who would restore racetrack gambling and those who would establish a Racing Commission. The backers of the Racing-Commission plan claimed that only by means of such a commission could the grip of the old Emeryville group be broken. The Emeryville group, by the way, have continued their organization, and to a large extent their machinery. They may be counted upon to strike for restoration of their gambling privileges the day the reputable citizenry of the State forget and become indifferent to the evils of racetrack gambling.[128]

From the beginning of the session there were rumors that an effort would be made to make ineffective by amendment, or to repeal entirely, the act of 1911, under which racetrack gambling had been outlawed. The first move to that end came toward the end of the first part of the session, when Marron of San Francisco introduced a measure providing for a racing commission of members to be appointed by the Governor.[129] The

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128 C. T. Boots, J. C. Nealon and Porter Ash testified before the public morals committees of Senate and Assembly that the old Emeryville crowd had kept their hold upon the track at Emeryville at a cost of $500 a month rental, besides maintaining elaborate club rooms at San Francisco. The track property has since, however, been subdivided.

129 Assembly Bill 720, 1915 series. Marron also introduced a constitutional amendment, A. C. A. No. 13, 1915 series, under which prize fighting, outlawed by direct vote of The People at the 1914 general election, could have been resumed in California. Although introduced as a constitutional amendment, it was indeed a statute, some six pages in length. To guard against any possible failure of the exploiters of prize fighting to control the Legislature, the measure provided that: "The Legislature may pass such laws as may be necessary to carry the provisions of this article into force and effect, but may not place any other or further limitations than are herein imposed upon boxing or sparring matches or exhibitions conducted, held or given by any club, corporation or association duly licensed pursuant to the provisions of this article." This measure did not come to vote in either House.

measure was a mild one. It did not authorize betting and apparently did not repeal the 1911 anti-gambling act. But there was nothing in the bill to prevent gambling. It was one of those mysterious, colorless measures which may mean nothing, or may be made to mean anything. The bill was not pressed either in committee or on the floor.

On the last day of the first part of the session, however, Marron introduced a second racetrack bill which was decidedly a pro-gambling measure. Of the purpose of this bill there could be no question.

This measure, Assembly Bill 1405, provided definitely for betting at the tracks under the Paris mutuels and Auction pool systems. Furthermore, it as definitely repealed all conflicting acts and parts of acts. The conflicting act which stood in the way of Assembly Bill 1405 was the anti-Racetrack Gambling law of 1911.

This Marron measure contained one provision which was quite characteristic of those who seek to engage in such gambling enterprises as were formerly conducted at Emeryville. It will be remembered that the Emeryville gamblers were extremely "generous." They contributed to hospitals,[130] to funds for taking care of

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130 Fabiola Day, on which the Emeryville gate receipts went to Fabiola Hospital, was one of the events of the Emeryville season. The day was made a social occasion. Alameda county society people attended. Many made their first bets on Fabiola Day. They returned later "to win back their losses." The gamblers found the Fabiola Day investment of the gate receipts highly profitable. Their "generosity" compared very well with the well-advertised "generosity" of any tenderloin or corporation group. The Home Telephone Company, for example, on the advice of Abe Ruef that the "generosity" would create a good impression for the company, subscribed to the San Francisco relief fund at the time of the 1906 earthquake and fire, $75,000. The company was at the time, through Ruef, bribing the San Francisco Board of Supervisors to give it a telephone franchise for $25,000. The agent of another company testified under oath that his principals were at the time willing to pay San Francisco $1,000,000 for such a franchise. Again, the "generosity" of the exploiting element was very profitable "generosity."

maimed children. No doubt they gave generously to church fairs and even churches. They also corrupted school children, broke up homes, drove men to suicide, and women to worse. They filled the penitentiaries. Their "generosity" came high.

The characteristic bit in the Marron bill was the generous provision that, "five per cent. of the total gate receipts of every race meeting shall be paid into the State treasury."

The measure providing for a Racing Commission, which had the backing of the horsemen who were opposing the Emeryville gambling element, was introduced in the Senate. Even before it was introduced, it was being described in the San Francisco press as the pro-gambling act of the session.[131] This was not, however, borne out by its provisions.

The measure provided for a Racing Commission of five members authorized to issue licenses for race meets. In this, it was like the first Marron bill. It also contained drastic provisions against gambling, and expressly provided that nothing in its provisions was intended to repeal the anti-gambling act of 1911. Furthermore, the furnishing of race information to pool-rooms was strictly prohibited. With such provision enforced, the operation of outside pool-rooms would be impossible. Here, again, did it differ from the Marron measure.

An open hearing on the bill was had before the Senate Public Morals committee. Those supporting it

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131 It is interesting to note in this particular that the papers which were condemning the horsemen's bill were paying little or no attention to the pro-gambling measure which had been introduced by Marron.

signified their willingness to accept any amendment that would strengthen the existing law against racetrack gambling, and to bar vice from the track. Incidentally, they told something of the inside history of the differences between certain horsemen and the Emeryville group. They stated that in 1907 the Pacific Jockey Club arrogated to itself jurisdiction over all racing west of the Rocky Mountains. The Pacific Jockey Club is recognized by the New York Jockey Club. The Western club is dominated, the proponents of the bill stated, by the men who formerly controlled at Emeryville. J. C. Nealon and others stated to the committee that when the anti-Racetrack Gambling bill was passed in 1909, an official of the Pacific Jockey Club boasted there should be no racing in California until the anti-Racetrack Gambling law had been repealed.

"And," announced Nealon, "for six years they have made their threat good. The State Racing Commission which we ask would supplant that element and make it possible to hold race meetings in California without betting features of any kind."

Senator Luce, chairman of the Senate Public Morals committee, became convinced that the contention of the backers of the Senate bill was sound, and that the relief sought by the horsemen should be granted. But other members of the committee could see no good reason for running the risk of giving an entering wedge of which the gambling element might take advantage. Their position was well stated by Senator Chandler of Fresno:

"While I have all confidence in you gentlemen," said Chandler to those who appeared on behalf of the

bill, "nevertheless I feel that if this bill be enacted, that within six or eight years conditions will have so changed that the law will be amended until we shall have returned to the old gambling conditions which we have succeeded in doing away with."

Senator Luce took the horsemen at their word, and suggested a series of carefully considered amendments. The amendments strengthened the provisions against gambling, prohibited the sale of intoxicating liquors at the track, and provided the machinery by which any citizen could proceed against any race meeting conducted in violation of the terms of the act.

The amendments were offered by Beban of San Francisco, author of the bill. Furthermore they were supported by the San Francisco delegation. In the vernacular of the track, in supporting a measure prohibiting the sale of intoxicants and gambling, the San Francisco members were not "running to form." The evident concern of the San Francisco members for the passage of the bill, regardless of the sacrifice of liquor and gambling interests, did not tend to lay the prejudice against it. Senator Benedict of Los Angeles expressed the attitude of a considerable group of Senators when he said:

"If we pass this bill, at the very next session we shall have advocates of gambling up here with the plea that racing cannot be conducted without gambling. They will offer to divide their gambling profits—with some charitable institution probably. I am against such policy."

But the amendments were adopted and the bill brought to vote.

The feature of the debate which preceded the vote was that every member who spoke for the bill insisted that he was against racetrack gambling; and that the pending measure could not be employed as a step toward racetrack gambling.

"If," said Senator Ballard, "I believed this bill would revive gambling, I would be as much against it as its strongest opponent."

"I have," said Senator Strobridge, "voted for every bill to prevent racetrack gambling since I have been in the Legislature. I would not vote for this bill if gambling could be revived under it."

"I don't believe," said Senator Struckenbruck, "that a Legislature will ever convene in California that will repeal the anti-Racetrack Gambling law."

Senator Beban—the only San Francisco member who took part in the debate, although the San Francisco members of both Houses evinced the keenest interest, several of the San Francisco Assemblymen being present—insisted there was "no possibility of any Legislature of the future attempting to amend the pending measure so as to permit racetrack gambling."

But the majority of the Senate could not be convinced. Senator Jones of Santa Clara voiced the majority view when he insisted that were the bill to be passed, lobbyists would be before the next Legislature with the plea that gambling should be permitted under State supervision. "The fight against gambling at the 1909 and the 1911 sessions," insisted Senator Jones in conclusion, "was too hard a fight to be lost in this way."

The bill was defeated by a vote of 11 for to 20

against.[132] Beban changed his vote from aye to no, to give notice of a motion for reconsideration. But nothing came of Beban's move. The measure was definitely defeated. Of the seven San Francisco members, six voted for the bill. The seventh member, Scott, did not vote.

In the Assembly an attempt was made to put through the Marron bill. Before it came to final vote, however, it was amended to prohibit gambling as absolutely as had the Senate measure. The sale of intoxicants at the racing grounds was also definitely prohibited. But the opponents of racetrack gambling could not discover that the measure was necessary, or even desirable. Although the bill got a better vote than had the Beban bill in the Assembly, it was defeated by a vote of 32 to 32,[133] forty-one votes being required for its passage.

After adjournment of the California Legislature, it developed that laws to establish Racing Commissions had been passed by the Nevada, Colorado and other

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132 The vote by which the Racetrack bill was defeated was as follows:

For the bill—Ballard, Beban, Crowley, Finn, Flaherty, Gerdes, Luce, Rush, Strobridge, Stuckenbruck, and Wolfe—11.

Against the bill—Anderson, Benedict, Benson, Birdsall, Brown, Butler, Carr, Cogswell, Cohn, Duncan, Flint, Irwin, Jones, Kehoe, King, Maddux, Mott, Purkitt, Slater, and Thompson—20.

133 The vote by which the Marron bill was finally defeated was:

For the Marron bill—Anderson, Arnerich, Ashley, Beck, Boyce, Browne, M. B.; Bruck, Byrnes, Canepa, Cary, Chenoweth, Ellis, Ferguson, Gelder, Godsil, Harris, Hawson, Hayes, J. J.; Judson, Kennedy, Kerr, Manning, McDonald, J. J.; McDonald, W. A.; Pettis, Phillips, Prendergast, Quinn, Ream, Ryan, Salisbury, and Widenmann—32.

Against the Marron bill—Avey, Bartlett, Benton, Boude, Burke, Chamberlin, Downing, Edwards, R. G.; Fish, Gebhart, Hayes, D. R.; Kramer, Long, Lostutter, Lyon, McCray, Mouser, Phelps, Rigdon, Rominger, Schmitt, Scott, C. E.; Scott, F. C.; Scott, L. D.; Sharkey, Shartel, Sisson, Wills, Wishard, Wright, H. W.; Wright, T. M., and Young—32.

State Legislatures. Immediately the gambling element became prominent in the affairs of such commissions. Scandals developed at practically every track where racing under such commissions was attempted. In the case of the Nevada commission a minority standing for clean sport endeavored to block the plans of their associates, but their efforts amounted to little. Racing was conducted at the Panama-Pacific International Exposition under the rules established by the Nevada Commission. The directors of the Panama-Pacific International Exposition, and the San Francisco authorities, in spite of protests from reputable citizens, permitted racetrack gambling to be carried on all through the meet. Little effort was made to disguise it. The State law was openly violated. The California State Exposition Commission protested against this lawlessness at the Exposition, but the directors took no action.[134]

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134 The following letter of protest from the California State Commission was sent to the Sub-Committee of the Directors of the Exposition directly responsible for the lawless conditions at the track:

"San Francisco, September 9, 1915.

"To the Sub-Committee, Board of Directors, P. P. I. E.

"Gentlemen: When the agreement to hold the race meet at the track was signed a specific promise was made on behalf of the management that no betting would be permitted and every step taken to prevent the making of books and the placing of wagers.

"That the management had no intention of making good on this promise is evidenced by the universal betting, which is not only permitted but fostered each afternoon.

"The sale of season boxes to the bookmakers and professional racetrack gamblers is an evidence that the men in control of the enterprise propose to evade, if possible, every responsibility they assumed to respect the law of the State.

"Any visitor who attends the meet has ample opportunity to place money, and, indeed, would have to dodge to avoid the solicitations of those who desire to accommodate him in this regard.

"The situation is rapidly developing into a scandal and the brazen flouting of the law of the Commonwealth ought to be immediately suppressed by your Board."

Later the California Commission found it necessary to protest against other flagrant violation of the law which the Exposition

The conditions at the Exposition track were not commented upon by the San Francisco press, but the press of the interior, so far as it was able, made strong protest.

"It is," said the Sacramento Bee in its issue of September 18, 1915, "to the shame of the Exposition management that the most pernicious form of gam-

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authorities permitted on the grounds. The Commission's protest read as follows:

"The Panama-Pacific International Exposition Commission of the State of California most earnestly protests against the maintenance, within the Exposition grounds of the gambling hell now in full operation there.

"Several months ago this commission protested against the practice of gambling tolerated by you on the Zone. Following that protest, gambling was stopped. Lately, however, and, we are informed, with your knowledge and consent, and by virtue of an unlawful agreement entered into between the Director of the Division of Concessions and Admissions of the Exposition, and J. W. Coffroth, gambling in a more flagrant form has been resumed. There are now maintained, under that agreement, in the so-called '49 Camp, six roulette wheels, three crap games and one faro table. Daily and nightly, on Sundays as well as week days, and until 1 o'clock a. m., the tables are surrounded by men and women, some of them scarcely out of their teens, gambling, or learning to gamble. The player buys 'scrip' for cash at the cashier's window. With this 'scrip' checks are bought from the dealers at the tables. With these checks, the gambling is done. Nine out of ten of the players, it is claimed, lose their all before they quit. Those who win, or quit before they lose their all, are paid by the dealer in 'scrip,' which is redeemable in merchandise in certain well-advertised stores, and accepted as payment by numerous concessions on the Zone, by a certain taxicab company, certain restaurants, saloons and resorts of questionable character.

"The gambling thus carried on is in direct violation of the laws of our State. The 'scrip' is issued in violation of Section 648 of the Penal Code, which declares that 'every person who makes, issues or puts in circulation any bill, check, ticket, certificate * * * except as authorized by the laws of the United States, for the first offense is guilty of a misdemeanor, and for each and every subsequent offense is guilty of felony.'

"The games are conducted with a view of enriching a few professional gamblers and of making some money for the Exposition at the expense of gullible visitors to the Exposition and at the sacrifice of the good name of the City of San Francisco, and the State of California.

"There is no excuse for this crime against the public, not even the poor excuse that the Exposition needs the money representing the percentage which it drives from the criminal operations of the gamblers who run the resort.

"Upon the conclusion of the Exposition the State of California will be entitled to receive from the surplus of moneys on hand its share in proportion to the amount contributed by

bling, banned by State law after thousands of honest men and good women had been ruined through its evils, was allowed inside of California's great Exposition. When the race meet was planned, all connected with it gave absolute assurance that it would be conducted without gambling. Despite that pledge,

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it. It certainly does not intend to share in profits arising from the violation of the laws of the State.

"As officers of the State of California, the Commissioners insist that you forthwith discontinue all gambling games now conducted in the '49 Camp."

This communication was signed by Hon. Matt. I. Sullivan, former Chief Justice of the California State Supreme Bench, who was President of the State Commission. The Commission also found it necessary to protest to the Exposition Directors against the indecent shows which were permitted on the Zone. These shows were from time to time closed, but were repeatedly reopened. In these matters, the Directors of the Panama-Pacific Exposition did not keep faith with The People of California whose support by direct taxation, bond issue and private contributions, aggregating upwards of $17,500,000, made the Exposition possible. Had the California public suspected that racetrack gambling would be resumed at the Exposition track, indecent exhibitions tolerated, and other forms of gainful lawlessness permitted on the Exposition grounds, this support would not have been given.

Commenting upon the closing down of certain gambling games at the Exposition in the face of public outcry against them, the Fresno Republican, in its issue of September 26, 1915, said:

"The prompt stoppage of the gambling in the Forty-nine camp on the Exposition zone in San Francisco is another illustration of the power of publicity. The members of the executive sub-committee of the Exposition directorate did not take this action because they objected to the gambling. On the contrary, they do not object to it, and it had been started with their full knowledge and consent. They did not stop it because they had just learned of it, for they have known all about it from the beginning—and before. They did not stop it because they were afraid of the State commissioners, for they are not. They did not even stop it because the State commission protested, for they had contemptuously ignored a protest privately presented against an equally open violation of law on the racetrack at the other end of the Exposition grounds. They stopped it solely and exclusively because this time the protest was made with an exceedingly loud noise, and with complete disregard of those proprieties which ordinarily dictate that such matters shall be discussed behind closed doors. When the State commission's protest was published in the San Francisco Examiner and Bulletin, the Sacramento Bee and the Fresno Republican, and was finally sent out by the Associated Press to be read by everybody, everywhere—then that protest was heeded promptly and unconditionally. The public did it.

"While there are things which men are not ashamed to do in the dark, they suddenly discover that they are shameful when the light is turned on. For lawlessness, whether in

betting on the races ran wide open. During all the thirty-day period of the racing there was not a protest made by the Exposition Directors, nor by any one connected with the Exposition. Not a newspaper in San Francisco raised its voice in protest. The evil was allowed to flourish unrebuked, in defiance of State law and in violation of common decency."

Through the Panama-Pacific International Exposition track, the racetrack gamblers, after four years' banishment from the State, were able to resume operations in California. The encouragement thus given makes probable renewed activities on their part in the 1917 Legislature to secure repeal or hampering amendment of the anti-Racetrack Gambling act of 1911, under which they have been driven out of all California communities where the laws of the commonwealth are respected.

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high or low place, there is no policeman so efficient as publicity.

"And there could be no better refutation than this of the snarling pretense that public sentiment is in favor of these violations of the law. 'You ought to have been raised in a city,' said the most sneering cynic in San Francisco to one of the State commissioners. 'Then you wouldn't be so damned narrow-minded as to want to impose your own narrow notions on the liberal people of a great city.' But when the fact that the Exposition was protecting an open and notorious illegal gambling joint was printed where these 'liberal' people in San Francisco could read it, the very menace of their scorn made it impossible for that protection to continue. The 'liberal' people of cities do not believe in these things. Nobody believes in them. As witness the fact that nobody dares publicly defend them, nor tolerate them when the fact of his doing so is public.

"One more lesson the State commissioners have doubtless learned. They did not seek the weapon of publicity in this case. It came into their hands unasked and accidentally. They were ever squeamish by reason of an exaggerated sense of the amenities about using it. But having had the experience twice in the same month of protesting against the violation of a State law, once privately and once publicly, and of having the private protest contemptuously sidetracked without even the courtesy of an answer, while the public protest was immediately effective—well, it will be their own fault if any future protests which their duty to the State law may require them to make should not be equally effective."

Ordinarily, the Exposition management was able to prevent adverse publicity. But on rare occasions the curtain was lifted and the public given a view behind the scenes. These rare glimpses of what went on there were not reassuring.

CHAPTER XV.

Measures Supported by Women.

The principal organized effort of women at the 1915 session to secure the enactment of given measures was through the Women's Legislative Council of California. This Council represented twenty-five women's organizations [135] with a total membership of 75,000.

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135 The Women's Legislative Council of California was organized in October, 1913. It was at the opening of the 1915 Legislature, composed of twenty-five organizations with a total membership of 75,000 women, as follows: Alameda District C. F. W. C., president, Mrs. W. E. Colby, 2901 Channing Way, Berkeley; Alhambra Wednesday Afternoon Club, president, Mrs. H. E. Rose, Alhambra; Berkeley Center Civic League, president, Mrs. Dane Coolidge, Dwight Way End, Berkeley; Berkeley Women's Democratic Club, secretary, Mrs. L. L. Van Haren, 2311 Hilgard avenue, Berkeley; California Federation of Women's Clubs, president, Mrs. L. P. Palmer, 540 W. Ivy street, San Diego; California Congress of Mothers, president, Mrs. H. N. Rowell, 3158 College avenue, Berkeley; California Women's Christian Temperance Union (North), president, Mrs. Sara J. Dorr, 706 Emory street, San Jose; (South), president, Mrs. L. S. Blanchard, Temperance Temple, Los Angeles; California Civic League, president, Miss Julia George, 1136 Eddy street, San Francisco; California Juvenile Protective Association, president, Mrs. C. G. Irving, Hotel Cecil, San Francisco; California Women's State Democratic Club, president, Mrs. C. H. Spinks, 2912 Benvenue avenue, Berkeley; California State Nurses' Association, president, Mrs. Amos Evans, 68 Fairmont avenue, Oakland; California Anti-Capital Punishment League, president, Mrs. S. Inger, 460 Fairmont, Oakland; Los Angeles City Teachers' Club, president, Miss E. M. Hodgkins; Los Angeles Friday Morning Club, president, Mrs. R. J. Waters; Los Angeles Woman's Republic, president, Mrs. M. E. Jenkins, Fremont Hotel, Los Angeles; Oakland Center, Civic League, president, Mrs. E. C. Robinson, 552 Monticello avenue, Oakland; Pasadena City Federation Parent Teachers' Association, president, Mrs. J. N. Probasco, 961 N. Michigan avenue, Pasadena; Woman's Civic League, president, Mrs. R. J. Burdette, Pasadena; Sacramento Woman's Council, president, Mrs. C. H. Adams, 2727 M. street, Sacramento; San Francisco Center Civic League, president, Mrs. A. P. Graupner, 2901 Jackson street, San Francisco; San Francisco Woman's Progressive Club of the Mission, president, Mrs. Sarah Roberts, 55 Chenery street; San Joaquin District C. F. W. C., president, Mrs. H. A. Bates, Modesto; San Jose Political Equality Club, president, Mrs. L. Y. Watkins, 1195 S. First street, San Jose; Stockton Woman's Council, president, Mrs. C. A. Clarke, 645 W. Poplar street, Stockton.

The council endorsed six bills covering five subjects: Senate Bill 511, providing for registration of all births and deaths under the direction of the State Board of Health; Senate Bill 257, regulating child labor; Assembly Bill 239, compulsory education for children under sixteen; Senate Bill 427, providing for the employment of teachers to enter homes and give instruction in families; and Senate Bills 597 and 599 to give women equal standing with men for jury service.

The first measure on the list, the so-called Birth Registration bill, as originally introduced provided that the State Board of Health should have charge of the registration of all births and deaths. Marriages were afterwards added. The bill was also amended to place the registration in charge of a "State Registrar," but made the secretary of the State Board of Health, ex-officio State Registrar. The Council claimed for the bill that it would "help to reduce infant mortality, protect children at school and at work, and protect personal and property rights."

The measure did not receive a negative vote in either House.

The records show that the second bill supported by the Council became a law. It did. But not with the provisions it had contained when the women endorsed it.

As originally introduced the measure amended the Child Labor law by raising the age limit at which children may be employed in gainful occupations. It:

(1) Prohibited street vending by boys under fourteen and girls under eighteen.

(2) Prohibited children under sixteen working in specified dangerous industries.

(3) Provided that labor in canneries shall not be construed as a horticultural pursuit. Indeed, the original measure explicitly provided that "horticultural shall be understood to include the curing and drying, but not the canning, of all varieties of fruit." The measure provided that "nothing in this act shall be construed to prohibit the employment of minors at agricultural, horticultural or viticultural, or domestic labor during the time the public schools are not in session, or during other than school hours."

The public will some day awake to the abuses which are possible under that exception.[136] Then the law to protect children against exploitation will not contain such provision. But the original of Senate Bill 257 provided a step in the right direction by declaring that cannery labor is not horticultural labor.

There was comparatively little opposition to the provision that minors under fifteen shall not be employed

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136 So long as the employment of children in agricultural, horticultural and viticultural labor is unrestricted the public must be alert against the grossest abuses. At the town of Santa Clara a few years ago an attempt was made, with the sanction of the School Board, to dismiss the children from school a few minutes before twelve each day, that they might "work in the fruit," which included work in canneries. The schedule was to have the school open at eight in the morning and kept in continuous session until the hour of dismissal. The children could then report at the canneries at one o'clock and continue at work until late at night. At eight o'clock the next morning, they would begin their day. The plan was actually in operation for several days, but, owing to vigorous protest of parents who do not exploit their children, was abandoned. There is some reason to believe that had not this protest been made, the plan would have been put in general operation throughout the State. Incidentally it may be said that the people of California are raising fruit that they may raise and properly bring up and educate children. They are not raising children that they may raise fruit, although not a few chambers of commerce, some parents, and most canneries apparently hold to this mistaken theory.

in hazardous work. There is nobody making money out of children so employed, or at least no group strong enough to compel legislative consideration. For the same reason, there was no objection to the provision to keep girl venders under eighteen years of age off the streets.

But there are plenty making money off boy street venders and children cannery hands. Pressure was brought to compel exception in these two cases.

Nevertheless, the bill went through the Senate, unchanged in these two particulars. The fight to have boy street venders and children cannery hands left at their tasks took place in the Assembly.

The Assembly Committee on Labor and Capital resisted the pressure to permit unrestricted child labor in canneries, but yielded the point on boy street venders. The committee recommended that the age limit of boy street venders be reduced from fourteen to twelve years.

But on the floor of the Assembly, another hack was taken at the age limit of boy street venders. It was reduced from twelve to ten years. The motion for this further reduction was made by Assemblyman W. A. McDonald of San Francisco, a stanch supporter of the cause of labor. The McDonald amendment was read into the bill by a vote of 42 to 15.[137]

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137 The vote by which the McDonald amendment fixing the limit of the age of boy street venders at 10 years instead of twelve, after having been reduced from fourteen, was:

For am'd'ts—Arnerich, Ashley, Avey, Bartlett, Benton, Boude, Boyce, Byrnes, Canepa, Chamberlin, Edwards, R. G.; Encell, Fish, Godsil, Harris, Judson, Kennedy, Kerr, Kramer, Lostutter, Lyon, McDonald, J. J.; McDonald, W. A.; Mouser, Phelps, Phillips, Quinn, Rigdon, Ryan, Schmitt, Scott, C. E.; Scott, F. C.; Scott, L. D.; Sharkey, Sisson, Spengler, Tabler, Widenmann, Wills, Wishard, Wright, H. W., and Young—42.

Against am'd'ts—Anderson, Beck, Browne, M. B.; Bruck, Cary, Chenoweth, Ferguson, Hawson, Hayes, D. R.; Hayes, J. J.; Long, Manning, McCray, Ream, and Wright, T. M.—15.

In the country districts canners can make money by exploiting child labor. These canners, and those in sympathy with them, are politically important; they can compel legislative consideration. A second amendment was offered in the Assembly to the child labor bill, and adopted, to make "canning" a horticultural pursuit. The effect of the amendment was to remove practically all restriction on the employment of children in canneries.

As amended, to permit boys after their tenth birthday to act as street venders, and to remove practically all restrictions on the employment of children in canneries, the bill was returned to the Senate. The Senate concurred in the amendment providing for boy street venders, but refused to concur in the amendment making "canning" a horticultural pursuit. The Assembly receded from this last amendment, and the bill became a law.

The compulsory education bill (Assembly Bill 239) as originally introduced provided that children under sixteen years of age be kept in public or private school until the eighth grade is completed, unless sufficient evidence be furnished by parents or proper officials, that the child, because of physical, mental, or other disabilities cannot attend.

The framers of the bill had no idea of denying the privilege of attending private schools. However, when the bill was before the Assembly on April 6, it was so amended as to compel attendance at public schools to the exclusion of all others. After the bill had passed both Houses and was before the Governor, parochial

and other private school interests protested. Governor Johnson did not sign it.

The "Home Teachers bill" (Senate Bill 427) provided that school districts may employ one teacher for each 500 pupils, whose business it shall be to go into the homes and instruct the families in school attendance, sanitation, the English language, household duties, the fundamental principles of the American system of government and the rights and duties of citizenship. The purpose of the bill was to bring into touch with American standards the constantly growing groups of immigrants who are in the country but are not of it.

The bill went through the Senate without opposition and without amendment. It passed the Assembly—after it had been determined that no important group of voters objected to its enactment. But three members —Gelder, Manning and Marron—voted against it.

Another measure (Assembly Bill 671), which had the general support of women, established an educational and industrial system at the Sonoma State Home. This measure was endorsed by the California Civic League, which is made up of organizations of women in practically every important community of the State. Under the terms of the measure, provision is made for the training of each inmate at the Sonoma school up to his or her fullest capacity, and to provide for proper instruction for the higher grades of feeble-minded. The bill passed both Houses without a dissenting vote being registered against it.

Women were also particularly interested in Senate Concurrent Resolution No. 22, introduced by Kehoe.

This resolution set forth the Legislature's attitude on the question of woman suffrage.[138]

The resolution was adopted in the Senate by a vote of 21 to 0.[139]

The resolution was adopted in Assembly, but by *viva voce* vote, no roll call being taken to record the votes of the individual members.

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138 The resolution in full read as follows:

Relative to the correction of erroneous reports regarding California's experience under Woman Suffrage.

Whereas, The issue of Woman Suffrage is pending in many States of the Union; and

Whereas, The operation and effect of the enfranchisement of women in California is being constantly misrepresented in such States and used there as arguments in opposition to the granting of suffrage to women; therefore, be it

Resolved by the Senate of the forty-first session of the Legislature of the State of California, the Assembly concurring, That the experience of this State amply justifies the adoption of Woman Suffrage by the people in October, 1911; and, be it further

Resolved, That so successful has been the operation and effect of granting political rights to women equal to those held by men, that it is generally conceded that were the question to be again voted on by the people of this State, it would be re-endorsed by an overwhelming majority; and, be it further

Resolved, That the adoption of Woman Suffrage by California is one of the important factors contributing to the marked political, social and industrial advancement made by our people in recent years, and that any disparagement of the cause of Woman Suffrage attempted elsewhere on the ground that Woman Suffrage is not satisfactory to this State, has no basis in fact, and is signally disproved by the acknowledged intelligence and discrimination shown by women voters in the settling of our great political and industrial problems at the polls.

139 The vote by which Senate Concurrent Resolution No. 22 was adopted was as follows:

For the resolution—Senators Anderson, Ballard, Benson, Birdsall, Brown, Butler, Carr, Cogswell, Cohn, Crowley, Duncan, Finn, Irwin, Kehoe, Mott, Purkitt, Shearer, Slater, Strobridge, Stuckenbruck, and Thompson—20.

Against the resolution—None.

CHAPTER XVI.

The Woman-Juror Bills.

The so-called Woman-Juror bills were two in number.

The first (Senate Bill 597) provided that women should serve on juries.

The companion measure (Senate Bill 599) provided that on juries in all trials of cases there should be persons of the same sex as the parties to the action. Practically the same provision was in Senate Bill 597.

The measures were strongly opposed. The debates over them were not unlike the old-time disputes of former sessions over woman-suffrage amendments, the arguments advanced against women serving on juries being about the same as those formerly advanced against the granting of the ballot to women.

The issue was fought out over Senate Bill 597. That measure made the code definitions of a jury, where described as "a body of men," read "a body of persons of either or both sexes."

The measure went to the Senate Judiciary Committee. The Committee sent the two bills back to the Senate with the recommendation that they be passed.

But the bills had not been before the Senate long before it became evident that the committee recommendation would be ignored. The measures were sent back to the Judiciary Committee for further consideration.

The Committee suggested certain amendments to

Senate Bill 597 and again sent the bill to the Senate. The companion bill, Senate Bill 599, was held in committee.

These suggested amendments to Senate Bill 597 cut all reference to sex out of the bill. Where the measure had read "persons of either or both sexes," it was made to read "Persons." Under the law as it stands a jury is described as "a body of men." Under the amended bill a jury was described as "a body of persons." This, it was held, would qualify women for jury service, but did not require that women should serve on every jury.

Another amendment struck out the provision that on every jury should be persons of the sex of the party or parties concerned in the action.

When the measure came to final vote, an attempt was made to amend it by adding a provision that any woman desiring to be excused from jury service could be relieved of the duty by simply asking of judge or summoning officer that she be excused. This amendment was voted down by a vote of 7 to 30.[140]

The bill was then passed by a vote of 24 for to 14 against.[141]

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140 The vote by which the amendment was defeated was:

For the amendment—Senators Duncan, Gerdes, Irwin, King, Luce, Maddux, and Slater—7.

Against the amendment—Senators Anderson, Ballard, Beban, Benedict, Benson, Birdsall, Breed, Brown, Butler, Carr, Chandler, Cogswell, Cohn, Finn, Flaherty, Flint, Hans, Jones, Kehoe, Lyon, Mott, Owens, Rush, Scott, Shearer, Strobridge, Stuckenbruck, Thompson, Tyrrell, and Wolfe—30.

141 The vote by which the Woman Juror bill was passed was:

For the bill—Senators Anderson, Beban, Benedict, Benson, Birdsall, Breed, Brown, Butler, Carr, Finn, Flaherty, Hans, Jones, Kehoe, Luce, Lyon, Rush, Scott, Slater, Strobridge, Stuckenbruck, Thompson, Tyrrell, and Wolfe—24.

Against the bill—Senators Ballard, Campbell, Chandler, Cogswell, Cohn, Duncan, Flint, Gerdes, Irwin, King, Maddux, Mott, Owens, and Shearer—14.

But Senate Bill 597 was a long way from becoming a law.

The following day, the Senate voted to reconsider the vote by which the bill had been passed. Thirty-three Senators voted for reconsideration. Not a vote was cast in the negative. Four days later the measure for the second time came up for passage.

One of the hardest-fought contests of the session developed. Amendment after amendment was offered to enable women who so desired to escape jury service. These amendments were combated on the theory that jury service is not a privilege but a duty. On the other hand, the proponents of such amendments contended that no woman who wishes to escape jury service should be compelled to serve.

The first of the amendments was offered by Senator Benedict. It provided that no woman should be summoned to serve as a juror who failed to file, during the forty-five days immediately preceding January 15 of each year, a statement declaring her willingness to serve.

Senator Cogswell opposed this amendment on the ground that the professional juror is always objectionable, and that under the amendment practically all the women who would go to the trouble to signify their willingness to serve would be those of the professional juror class.

"Better abolish the jury system entirely," said Cogswell, "than read into it such vicious features as this."

Senator Butler, author of the bill, opposed the amendment, stating that if it were to be adopted he hoped the bill would be defeated.

Senator Campbell, who led the opposition against the bill, argued that since women are not fit for military service they should not be required to do jury service.

"You are," said Benson of Santa Clara, in reply to Campbell's argument, "harking back to the dark ages of the suffrage campaigns. We heard all that when the question of suffrage was under discussion."

The amendment was defeated by a vote of 11 to 25.[142]

Senator Butler offered an amendment providing that "no woman shall ever be required to serve as a juror in any of the courts of this State unless she has previously filed with the clerk of the Superior Court a notice in writing that she is willing to serve as such juror."

This amendment was defeated by a vote of 17 to 20.[143]

At this point in the discussion, Campbell, the leader of the opposition, moved that the Senate go into executive session.

Campbell held that at some trials, testimony is given

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142 The vote by which the Benedict amendment was defeated was:

For the amendment—Senators Anderson, Benedict, Birdsall, Duncan, Kehoe, King, Owen, Slater, Strobridge, Stuckenbruck, and Thompson—11.

Against the amendment—Senators Ballard, Beban, Benson, Brown, Butler, Campbell, Carr, Chandler, Cogswell, Cohn, Crowley, Finn, Flaherty, Flint, Gerdes, Irwin, Jones, Luce, Maddux, Mott, Purkitt, Scott, Shearer, Tyrrell, and Wolfe—25.

143 The vote by which the Butler amendment was defeated was:

For the amendment—Senators Anderson, Benedict, Birdsall, Butler, Campbell, Cohn, Duncan, Finn, Flaherty, Flint, Kehoe, King, Owens, Rush, Slater, Strobridge, and Thompson—17.

Against the amendment—Senators Ballard, Beban, Benson, Breed, Carr, Chandler, Cogswell, Crowley, Gerdes, Irwin, Jones, Luce, Maddux, Mott, Purkitt, Scott, Shearer, Stuckenbruck, Tyrrell, and Wolfe—20.

which is unfit for women to hear. He proposed, he said, to read a number of excerpts from California cases to establish his point. He did not think that the women present in the Senate Chamber should hear the testimony.

Luce of San Diego denied the necessity of an executive session. He also insisted that nothing would be gained by reading the stuff which Campbell had on his desk; that the reading of Campbell's documents would not change a single vote.

Senator Anderson backed up Luce's position, stating that it was unnecessary to read such stuff, while Slater insisted that an executive session and the reading of Campbell's "evidence" would be a waste of time.

Nevertheless, the Senate, by a vote of 23 to 16[144] decided to go into executive session.

The executive session was as tame as it was unnecessary. Campbell did not read the testimony described as unfit for woman's ears; there was no reason why the women or anybody else should have been excluded. Campbell, after the room had been cleared, was treated to strong intimation that what is unfit for women to hear is not fit to be inflicted upon men. But even had the stuff been read, it would not, as Luce had very well said, have influenced a single vote one way or the other.

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144 The vote by which the Senate decided to go into executive session was as follows:

For the executive session—Senators Ballard, Benedict, Brown, Campbell, Chandler, Cogswell, Cohn, Crowley, Finn, Flaherty, Flint, Gerdes, Irwin, King, Lyon, Maddux, Mott, Owens, Purkitt, Shearer, Strobridge, Stuckenbruck, and Thompson—23.

Against the executive session—Senators Anderson, Beban, Benson, Birdsall, Breed, Butler, Carr, Duncan, Jones, Kehoe, Luce, Rush, Scott, Slater, Tyrrell, and Wolfe—16.

While the Senate was in executive session, Butler offered a second amendment very similar to his first which had been voted down. The second Butler amendment provided that "no woman shall ever be required to serve as a juror in any of the courts of this State if she shall file in writing with the clerk of the Superior Court of the county in which she resides, notice that she does not desire to serve as a juror."

This second Butler amendment was defeated without roll call being demanded.

Senator Tyrrell offered an amendment which provided that "any female summoned as a juror must be excused upon her request to the court to be excused."

The Tyrrell amendment was defeated by a vote of 15 to 22.[145]

Senator Luce moved an amendment providing "that the court may excuse all women from serving on the jury in any case in which the said court has reason to believe that the testimony about to be adduced will be of such an unusually obscene character as to render it unfit for a jury not composed wholly of men."

The Luce amendment was defeated by *viva voce* vote.

Luce's proposed amendment was the last of the series offered. The vote on the passage of the bill followed.

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145 The vote on the Tyrrell amendment was:

For the Tyrrell amendment—Senators Anderson, Birdsall, Breed, Butler, Campbell, Cohn, Flaherty, Gerdes, King, Luce, Rush, Slater, Strobridge, Thompson, and Tyrrell—15.

Against the Tyrrell amendment—Senators Ballard, Beban, Benson, Brown, Carr, Chandler, Cogswell, Crowley, Duncan, Finn, Flint, Irwin, Jones, Lyon, Maddux, Mott, Owens, Purkitt, Scott, Shearer, Stuckenbruck, and Wolfe—22.

The measure was defeated, 17 voting for it and 20 against it.[146]

After the defeat of Senate Bill 597, the companion measure, Senate Bill 599, was allowed to remain in committee.

Those who held that women should be placed on an equality with men in the matter of jury service, however, continued their efforts to make at least a beginning toward that end.

Downing, in the Assembly, had introduced a Woman-Juror bill on his own account (Assembly Bill 1074). The measure provided that juror lists should contain the names of men and women in equal numbers. The Assembly amended it by striking out the words "in equal numbers." As the bill was amended it provided that juror lists should contain the names of both men and women. As amended the bill passed the Assembly

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146 The vote by which the Woman Juror bill (Senate Bill 597) was defeated was as follows:

For the bill—Senators Anderson, Beban, Benson, Breed, Butler, Carr, Finn, Flaherty, Jones, Luce, Lyon, Rush, Scott, Slater, Thompson, Tyrrell, and Wolfe—17.

Against the bill—Senators Ballard, Birdsall, Brown, Campbell, Chandler, Cogswell, Cohn, Crowley, Duncan, Flint, Gerdes, Irwin, King, Maddux, Mott, Owens, Purkitt, Shearer, Strobridge, and Stuckenbruck—20.

Senator Benedict had the following statement regarding his absence from the Senate chamber when the vote was taken, printed in the Journal: "I desire to state that had I been present at roll call on final passage of Senate Bill No. 597 I would have voted 'No.' I had gone to my committee room in accordance with previous engagement to confer with the Assistant City Attorney of Los Angeles, believing that debate on the question would continue so long that recess would be taken and final vote had in the afternoon. Before going, however, I told Assistant Sergeant-at-Arms Newson that I would be in my committee room and that he should call me in event that the Senate reached a roll call."

Kehoe was also unavoidably absent from the chamber, and he, too, had left word with an assistant sergeant-at-arms that he be called if the measure came to vote before his return. But he was not called.

by a vote of 43 to 9.[147] In the Senate, however, it was defeated by a vote of 7 to 22.[148]

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147 The vote by which the Downing bill passed the Assembly was:

For the Downing bill—Anderson, Arnerich, Ashley, Avey, Bartlett, Benton, Boude, Brown, Henry Ward; Burke, Byrnes, Conard, Downing, Edwards, L.; Ellis, Encell, Ferguson, Gebhart, Gelder, Harris, Hawson, Hayes, D. R.; Hayes, J. J.; Kennedy, Kramer, Lostutter, Lyon, Manning, Marron, McCray, McDonald, W. A.; McKnight, McPherson, Meek, Mouser, Phillips, Rominger, Ryan, Scott, F. C.; Shartel, Sengler, Wills, Wishard, and Mr. Speaker—43.

Against the Downing bill—Bruck, Kerr, Long, Pettis, Phelps, Quinn, Ream, Sharkey, and Wright, T. M.—9.

148 The vote by which the Downing bill was defeated in the Senate was:

For the Downing bill—Anderson, Butler, Carr, Finn, Flaherty, Kehoe, Wolfe—7.

Against the Downing bill—Ballard, Beban, Benedict, Benson, Campbell, Chandler, Cogswell, Cohn, Duncan, Gerdes, Hans, Irwin, Maddux, Mott, Owens, Purkitt, Shearer, Slater, Strobridge, Stuckenbruck, Thompson, Tyrrell—22.

CHAPTER XVII.

Labor and the Legislature.

Since the overthrow of the Southern Pacific machine in 1910, much progress has been made in California in so-called labor and humanitarian legislation.

The day's work for women at gainful labor has been limited to eight hours; humane restriction has been placed upon the employment of children; the risk of life and limb in industry has, under practical workmen's compensation acts, been made a fixed charge against the industry and is no longer borne by the workers. Most satisfactory gains have been made in other labor reforms.[149]

But before these gains could be made—and this holds true of moral and political as well as industrial reforms—the "machine's" strangle-hold upon the State had to be broken.

Until The People could give free expression of their purposes at the polls they could not break this strangle-hold.

Such expression was made possible by direct-primary legislation.

And direct-primary legislation in California was not secured with the support, but, indeed, with the decided

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149 See "Story of the California Legislature of 1911" and of 1913, Chapters on Labor Legislation.

opposition, of men who, in the name of the Union Labor party, sat in the Legislature.[150]

The fight for this bill came at the 1909 session.

The opposition, in the main, labored to load the measure with hampering amendments. Had the bill's opponents succeeded in amending the act into ineffectiveness, the "State machine" would not have been broken at the 1910 elections. There would have been no Woman's Eight-Hour law passed in 1911, nor Workmen's Compensation act, nor any of the other so-called Labor measures which have become laws.

And the clearing of the way for the breaking of the "machine" was not accomplished with the support of the Union Labor members of Senate and Assembly, but, in the majority of cases, with their opposition.

Abe Ruef in his confessions is quite frank as to the use he made of such Union-Labor-Party legislators as he had a hold upon.

"I told the legislators," he tells us in his confessions printed in the San Francisco Bulletin, July 6, 1912, "to vote on all labor questions and legislation directly involving labor interests always for the labor side. I told them on all other questions to follow the Herrin program."

Under this arrangement, Herrin was evidently well served. Ruef tells us in the same paragraph from which the above is quoted that "Herrin was appreciative. He expressed his sense of obligation."

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150 See Senate and Assembly Journals for the 1909 session, "Story of the California Legislature of 1909," and files of San Francisco Call and Sacramento Bee for February, 1909, also Sacramento Bee for March, 1909.

But Labor, under this arrangement, got nothing worth while.

To be sure, during the Herrin regime, demagogues, riding on the back of Labor, made gallery-bidding plays in support of "Seamen's bills," "Full Crew bills" and the like, just as they gave gallery-playing support to measures favored by women, but in no case did such measures become laws until after the Southern Pacific Company had been kicked out of the government of the State, and the "machine" broken. The "machine" was defeated in 1910. The first Legislature in which Labor was given consideration worth while, Labor leaders in a position to know tell us, was that of 1911, the session following the "machine's" overthrow.

Mr. Paul Scharrenberg, secretary-treasurer of the California State Federation of Labor, in an article [151] reviewing the work of the 1915 session, emphasized this.

"It is true," says Mr. Scharrenberg, "that in a comparison of results achieved this (1915) session can hardly be placed in the same class with the sessions of 1911 and 1913. When compared, however, with the sessions prior to 1911, the 1915 session immediately takes a front seat. In other words, *Labor in California never received anything 'big' or 'worth while' at the hands of the lawmakers until the thirty-ninth session (Session of 1911).*"

Nevertheless, prior to 1911, Union Labor was—in name at least—well represented in both Houses.

At the 1909 session, for example, no less than seven

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151 Published in "Organized Labor" issue of May 15, 1915, page 2, "Review of the Forty-first Session of the California Legislature." Also published in "Labor Clarion" of May 14, 1915, and other publications devoted to the cause of Organized Labor.

Senators [152] and fifteen Assemblymen [153] had been elected in the name of Union Labor.

A group of seven in the Senate and fifteen in the Assembly is sufficient to compel consideration. There was, to be sure, much sound and fury that session over so-called "labor measures," but as Mr. Scharrenberg has stated, Labor that session received nothing "big" or "worth while."

The records made by Union Labor members that session on measures of vital interest to Labor, such as the Direct Primary bill and the Initiative Constitutional amendment, are suggestive.

In the case of the Direct Primary bill, the purpose of the "machine" element was to amend it to require either a majority or a high plurality vote for nomination. In the event of no candidate for a given office receiving a majority or the required plurality, the nomination was to be made by a nominating convention as under the old convention system. With such a provision it would have been easy for the "machine" to introduce a large number of candidates at the primaries, thus making it impracticable for any one of them to receive a majority or even a high plurality vote. This would have thrown nominations into a convention. Thus, while the State would have had a Direct Primary law, it would have been practically impossible to nominate a candidate under its provisions.

The Senate Committee on Election Laws decided

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152 Senators Anthony, Finn, Hare, Hartman, Reily, Welch and Wolfe.

153 Assemblymen Beatty, Beban, Black, Coghlan, Cullen, Feeley, Gerdes, Hopkins, Johnston, Macauley, Nelson, O'Neill, Perine, Pugh, Silver.

upon such amendments. On the committee were three Senators who had been elected in the name of Union Labor. They were Wolfe, Hartman, and Hare. The three supported and voted for the proposed amendments.

Later, when the bill was before the Senate, five of the Union-Labor Senators—Finn, Hare, Hartman, Reily and Wolfe—voted for a policy of amendment to require a high percentage plurality vote for nomination at a Direct Primary. But the resolution to that end was defeated. After this success, the friends of the bill were able to send it to the Assembly without hampering amendments.

In the Assembly, the bill's passage was complicated by amendments to take away the practical plan, provided in the bill as it had passed the Senate, of giving The People opportunity to nominate their United States Senators.

These amendments went into the bill by a vote of 38 to 36. Of the fifteen Union Labor members, twelve[154] voted for the amendments; one, Hopkins, did not vote; two, Gerdes and Silver, voting with the supporters of the Direct Primary bill, opposed the amendments. Had only three of the fifteen Union Labor members voted in the negative, the amendments would have been defeated, and the bill passed without the complications which followed.

The fight was resumed in the Senate.

In the Senate, twenty voted for concurrence in the Assembly amendments and twenty against. Of the

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154 Beatty, Beban, Black, Coghlan, Cullen, Feeley, Johnston, Macauley, Nelson, O'Neill, Perine, Pugh.

seven Union Labor Senators, six—Finn, Hare, Hartman, Reily, Welch and Wolfe—voted for concurrence, and only one, Anthony, voted against concurrence. Had even two of the seven Union Labor Senators voted against the Assembly amendments, the amendments would have been defeated. And yet, here was a measure in the passage of which in the most practical form possible, Union Labor men, in common with all good citizens, were vitally interested.

The friends of the Direct Primary could not overcome the opposition. But by contesting every opposing move of their opponents, they succeeded in arousing public opinion to such an extent that when the bill's entrenched opponents finally got the whip hand, and could have worked their will with the measure, they did not, in the face of public opinion, dare amend it into ineffectiveness. But during the weeks the contest between the two factions was carried on, the friends of Direct Primary legislation could count dependably on their side only three of the twenty-two Union Labor members of the two Houses.[155]

The record made by the Union Labor State Senators who sat in the 1909 session on the Initiative amendment is also suggestive.

This amendment had the endorsement of Union Labor. But in spite of Labor's endorsement, a Senator who had been elected with the nomination of the Union Labor party, Wolfe, led the fight against the amendment. Hartman, another Union Labor member, joined

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155 A full account of the contest over the Direct Primary bill will be found in "Story of the California Legislature of 1909."

Wolfe in voting against it. Finn, another Union Labor member, was not on hand to vote for the amendment when his vote was needed.[156]

Effective railroad regulation was defeated in the Senate at the 1909 session. There were two regulatory measures, the Stetson bill and the Wright bill.

The former was regarded as effective, the other as ineffective. The Senate selected the Wright bill over the Stetson bill by a vote of 22 to 18. Every one of the seven Union Labor Senators voted for the Wright bill and against the Stetson bill. Had three of them—less than half—voted for the Stetson bill, the effective and not the ineffective Railroad Regulation bill would have been enacted at the 1909 session.

On moral issues, the vote of the Union Labor party legislators has been as uncompromisingly against the "anti-machine" element.

Thus, at the 1909 session, all of the seven Union Labor Party Senators voted against the Local Option bill. Seven Senators of the forty voted against the anti-Racetrack Gambling bill that year. Five of them—Finn, Hare, Hartman, Reily and Wolfe—had been elected with Union Labor Party nominations. In the Assembly, ten voted against the bill. Eight of the ten—Beban, Black, Coghlan, Cullen, Hopkins, Macauley, O'Neill and Pugh—had been elected with Union Labor Party nominations.

With the breaking of the grip of the "machine," all the reforms, including humanitarian and labor, which the "machine" element had succeeded in defeat-

156 See "Story of the California Legislature of 1909."

ing in 1909, were realized. The humanitarian and labor reforms came with the others as a matter of course. But when the saloon interests, and the gambling interests and the corporation interests were—with the assistance of legislators who were elected with Union Labor Party nominations—all-powerful at Sacramento, Labor, to quote Secretary Scharrenberg of the State Federation of Labor, "received nothing 'big' or 'worth while.'"

It was only after the power of saloonkeeper, gambler and public service corporation had been broken, that the enactment of beneficial labor measures became possible.

One of the most suggestive features of Union Labor's part in shaping legislation has been the opposition of Union Labor representatives to measures aimed at vice interests,[157] and to members who have supported such measures.

Senator Kehoe of Humboldt, for example, is an effective supporter of labor measures. During his years of service in Senate and Assembly he has been able to do much for Labor. Senator Kehoe has also effectively combated vice interests.

In spite of Senator Kehoe's service in the cause of

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157 In 1913, when the University "Dry Zone" bill was before the Legislature, the Santa Clara County Building Trades Council and the San Jose Labor Council petitioned the Legislature to defeat it. As has been seen, the Los Angeles labor organizations at the 1915 session telegraphed Assemblyman Downing urging him to support the notorious Bruck constitutional amendment, to compensate winemen, distillers and brewers, for any loss they may sustain through Prohibition legislation. See page 139. But when Downing offered an amendment to compensate workingmen who might be injured by Prohibition legislation, the supporters of the Bruck measure voted down the Downing amendment. The liquor interest had Labor's support, but Labor did not have the support of the Liquor Interests.

Labor, however, Union Labor, at the 1912 elections, opposed Senator Kehoe's return to the Legislature. The saloon interests opposed him also. So effective was this combined opposition that Kehoe was all but defeated. Fortunately for the cause of Labor, however, Senator Kehoe was not defeated. He has continued one of Labor's most dependable supporters. He has, too, continued his opposition to saloon, gambling and brothel interests.[158]

Senator E. E. Grant is another member of the Legislature who advocated labor measures and at the same time supported measures aimed at underworld interests.

Senator Grant also found Union Labor politicians arrayed against him. During the Wolfe-Grant Recall campaign the false report was circulated that Senator Grant had opposed beneficent labor measures; that he was a foe of Labor.[159] These reports, in spite of denials

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158 Senator Kehoe's service to Labor is recognized by labor leaders of the type of Paul Scharrenberg. Mr. Scharrenberg publishes the following estimate of Senator Kehoe: "Fair, humane, efficient. A lawyer by profession, yet a 'Man' in every sense of the word. Supported practically all Labor bills. Highest type of lawmaker."

159 The injustice of these attacks called forth the following defense from Secretary Paul Scharrenberg, who knew Grant's record in the Legislature:

"San Francisco, Cal., July 17, 1914.

"Editor Organized Labor,
"1122 Mission Street, San Francisco, Cal.
"Dear Sir and Brother:

"My attention has been called to the fact that those persons who are interested in circulating petitions for the recall of State Senator Edwin E. Grant have spread the rumor that Senator Grant's record upon labor measures is not what it ought to be.

"As a matter of simple justice, permit me to call your attention to the fact that no bad votes are recorded against Senator Grant in the official labor record of members of our last Legislature.

"In response to certain questions submitted to Senator Grant prior to his election certain promises were made to Labor. Every promise made by Senator Grant was fulfilled and any

from labor leaders in a position to know the facts, unquestionably influenced many against him.

Grant had the opposition of the so-called Union Labor members of the Senate. The injustice of their attitude called forth sharp retort from Senator Benson on the occasion of Senator Wolfe's attempted reply to his critics.

"You men who come here representing Labor," said Benson, "you men who are up here because the laboring people have sent you here, what objection did you have to the record of Senator Grant? In the last session, I stood upon this floor, fighting the battles of Labor, not because you gentlemen were for Labor, not because there were Labor people in my vicinity—there are more people that are against Labor than there are Labor people there—but because I thought those votes were right. I went to the bat on labor propositions and I put myself out of sympathy with those men who were naturally friends of mine who could not understand my viewpoint, but in every fight here in the interests of Labor, Senator Grant was fighting by my side. His labor record was clean and straight. Why are you gentlemen sitting here in the attitude of opposition to Senator Grant? Is it because he did anything wrong for Labor? No; it is because you disagree with his stand upon the Redlight Abatement bill, and that is the

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one who states that the proposed recall is fathered or backed by organized labor should be promptly silenced.

"Trusting that you will give this communication publicity in the next issue of your valued publication, I remain, fraternally yours, Paul Scharrenberg, Secretary-Treasurer California State Federation of Labor."

reason that Senator Grant was recalled and that is the reason that Senator Wolfe occupies his seat to-day." [160]

On the other hand, when a member of the Legislature has opposed Labor measures, but has not seriously offended the liquor interests, we find the liquor interests rallying to his support to meet Labor's attacks upon him.

This was interestingly shown in 1914, when, largely with the support of Labor, an attempt was made to recall Senator Owens of Contra Costa.

Union Labor leaders declared that Owens had, at the 1913 session, broken his promise to support certain

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160 Senator Chandler, commenting upon Grant's recall, put the matter in a different way but quite as effectively:

"Prior to this session of the Legislature," said Senator Chandler, "there was a recall election held in the Nineteenth Senatorial District in San Francisco. I have a copy of the petition for that recall, and it reads something like this:

" 'The removal of Edwin E. Grant from said office is sought by us on the grounds to-wit: That as a member of the California Legislature since January 6th, 1913, he has voted against the wishes of his constituents.'

"Now I construe that to mean that every vote that Senator Grant took during that time was against the wishes of his constituents. Further along in the document it states: That on April 17th, 1913, he voted for Senate Bill 384, known as the "Dry Fair bill," ' which proposed to keep saloons out of the Fair. 'That on April 14th, 1913, he voted against Senate Bill No. 534.' This bill provides that no marriage could be solemnized until at least five days after issuance of license unless in an extraordinary or emergency case. Then further on: 'That on April 9th, 1913, he voted against Senate Bill No. 1007. This bill provided that school books compiled, printed and published in California, when equally as good and at the same or less cost, shall be used to the exclusion of all others.'

"In the time that I have had to look up the measures that were voted on during the session of 1913, I find such measures as these: 'The Red Light bill,' 'Workmen's Compensation,' 'Weights and Measures,' 'Immigration and Housing,' 'Eight Hours for Women,' 'Closing of Saloons from Two to Six a. m.,' 'Alien Land act,' 'Full Crew act,' 'Minimum Wages for Women,' all of those measures, Senator Grant voted for. * * * * *

"I assume, from the nature of that recall, that we had a right to believe they (The People of the Nineteenth Senatorial District) opposed all of the measures that I have mentioned, and that they would rather they would not have been enacted."

labor measures. The wine and other liquor interests rallied to Owens' defenses. Owens was not recalled.[161]

With few exceptions, those who have given Labor effective support in the Legislature—brought results—have opposed vice interests. At former sessions, for example, Labor never had more effective champions on the floor of the State Senate than Senators Shanahan and Caminetti. Both Shanahan and Caminetti strongly opposed saloon and vice interests.

When at the 1913 session, for example, the bill to close saloons from 1 to 5 in the morning was before the Senate, it had, with the exception of Senator Grant, who supported it, the opposition of all the so-called Union Labor members from San Francisco. Finally Senator Finn of San Francisco offered an amendment to exclude cities from its provisions. This brought caustic reply from Senator Caminetti.

"Don't you think, Senator Finn," demanded Caminetti, "the people of San Francisco can drink enough

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161 The following is taken from a statement of the defeat of the Owens Recall which was furnished the press by the California State Federation of Labor:

"The anti-labor spirit of the grape growers was even reflected in the precinct at Winehaven, where the employees of the California Wine Association voted three to one against the recall. The grape growers and the wine nabobs stabbed Labor in the back, but at the November election they will doubtless expect Labor's support in defeating the pending initiative measure which provides for State-wide Prohibition.

"An incident which will help to explain the 'line-up' of certain influential factors in politics took place at San Rafael on election day. Both the recognized Republican and Democratic bosses of Marin county were active workers for Owens. The Republican boss held forth at Julius Levy's Wholesale Liquor Store, from whence he directed the movements of twelve modern motor cars which were stationed in front of said store. The Democratic boss was in charge of the most stylish car bringing the faithful to the polls.

"Nevertheless, it appears as if many sincere and well meaning voters supported Owens because they had been led to believe that the liquor interests and the dive-keepers of San Francisco were behind Labor in the fight for his recall."

whisky in the remaining twenty hours to keep up her record for lasciviousness?"

Finn started to make reply about what he called the unfairness of his interrogator, when Caminetti thundered:

"The liquor interests of this State are going too far when they enter protest against a law as mild and reasonable as this. If they cannot agree to close their saloons between 1 a. m. and 5 a. m., then it may become necessary to say to them, 'you can't sell at all.' I wish to give warning to these people in the name of God and liberty, let our boys and girls be protected from the hell-holes of vice for at least four hours in the twenty-four."

In the 1915 Senate, the cause of Labor had dependable representatives in such men as Benson of Santa Clara, Luce of San Diego, Brown, Butler and Carr of Los Angeles, Duncan of Butte and Kehoe of Humboldt. In the Assembly such men as Downing of Los Angeles, Harris of Bakersfield, Judson of San Diego, Kramer of Santa Barbara, Wright of Santa Clara, gave effective support to humanitarian and labor measures. These men, regardless of how their action might affect their own business or political interests, voted for labor measures. But such dependable supporters of labor and humanitarian measures are the opponents—not the supporters—of the gambling, saloon and other underworld elements.

The enactment of beneficial labor and humanitarian legislation at the 1911 and 1913 sessions was due, not to the efforts of the so-called Union Labor group from

San Francisco, but to men of the type of Kehoe, Benson, Caminetti, Shanahan, who supported such measures, not for political advantage, but from principle.

Much was done at the 1911 and 1913 sessions to curb underworld activities, to bring predatory interests to account, and to improve the conditions of Labor.

But at the 1915 session, when reactionary interests showed themselves strong enough to prevent the strengthening of the Local Option law, to block the passage of a University Dry Zone bill [162] and to defeat the practical Insurance Rating bill, Labor lobbyists found themselves quite as ineffective as were the supporters of anti-vice and protective measures. Labor representatives, far from getting their measures through the Legislature, experienced the greatest difficulty in even getting some of the more important of them introduced.

As a consequence, to quote Secretary Scharrenberg, "in a comparison of results achieved (for Labor) this

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162 An amusing illustration of the importance in which the so-called "Labor Members" hold the saloons was given when the Owens bill (Senate Bill 1203) to prohibit the limiting of the number of apprenticeships was before the Senate. No measure was resisted more determinedly by Labor. Senator Scott of San Francisco was in the midst of a vigorous argument against this Owens bill, when he was interrupted by Owens. Owens inquired pertinently how long it had been since Scott had changed his attitude on the bill. Scott's reply indicated that when the University Dry Zone bill was before the Senate, he had agreed with Senator Owens that he (Scott) would vote for Owens' anti-Labor Apprenticeship bill, provided Owens would vote against the University Dry Zone bill. Owens voted against the "Dry Zone" bill, his vote being sufficient to defeat that measure. But when it came to Scott voting for the anti-Labor Apprenticeship bill, Scott "welched." Owens released him from his obligation. Scott gave as his reason for making the indicated arrangement with Owens that he (Scott) was in a "terrible jam" on account of the "Dry Zone" bill; that he was willing to promise anything. But, the danger past, the "jam" broken, Scott found himself in another "jam" because of his arrangement with Owens.

(1915) session can hardly be placed in the same class with the sessions of 1911 and 1913."

And in future, should Legislature ever convene in California at which the ban can be taken off racetrack gambling, at which pro-liquor measures of the character of the Bruck amendment can be put through, and handicap put upon the work of the State Railroad Commission, that session will see the repeal or modification of the beneficial labor and humanitarian laws which have gone on the statute books since the underworld-corporation "machine" was broken in 1910. So-called Union Labor members who when the "machine" controlled were, in spite of their numbers, powerless to put pro-labor legislation on the statute books, will be as impotent to prevent pro-labor legislation being struck off the statute books if reactionary underworld and corporation interests should ever again secure control.[163]

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163 The significant records made by Union Labor members on so-called "reform" measures is shown in a table of votes on such measures considered at the 1907 Assembly. The table was prepared by Mr. Charles R. Detrick. The measures included covered attempts made that session to outlaw racetrack gambling, regulate railroads, simplify the election laws, etc. Mr. Detrick graded the records made on these measures, numbering the best record No. 1 and so on down to the poorest record, No. 79, there being but 79 members in the 1907 Assembly. Mr. Detrick's rating of fourteen of the fifteen Union Labor members of the 1907 Assembly was as follows: Thompson, of San Francisco, Number 62; Boyle, 63; Vogel, 65; Fratessa, 66; Hartman, 68; Kahlnan, 69; Strohl, 71; Wilson, 72; Barry, 73; Beckett, 74; Kelly, 76; Beban, 77; Toomey, 78; Cullen, 79.

The fifteenth member elected with Union Labor nomination, Lieutenant-Governor John M. Eshleman; on the other hand, supported and fought for reform measures throughout the session. Eshleman, at the 1907 session, by insisting upon his anti-Racetrack gambling law being given consideration, placed the opening wedge for the eventually successful fight against the gamblers.

CHAPTER XVII.

The Finn Constitutional Amendment.

The legislative program adopted for 1915 by the State Federation of Labor set forth that "The State Federation of Labor will oppose any measure providing for the appointment of judges or to lengthen their term of office."

Mr. Paul Scharrenberg, secretary-treasurer of the Federation, in his review of the work of the 1915 session, includes under the classification, "Some Things 'Put Over' Despite the Protest of Organized Labor," "A Constitutional Amendment was submitted to a vote of the people aiming to lengthen the terms of Superior Judges from six to twelve years."

The constitutional amendment to which Mr. Scharrenberg refers was introduced by Senator Finn of San Francisco. It was known as Senate Constitutional Amendment No. 2. Senator Finn has been identified with the Union Labor Party movement at San Francisco from its beginning, having served as a police commissioner under Mayor Schmitz, having been elected sheriff on the Union Labor ticket, and being twice sent to the State Senate with Union Labor support.

Senator Finn, despite the protest of Organized Labor, was most active in "putting over" his amendment. In this he had the undivided support of the other Union-Labor members of the San Francisco Legislative delegation, not only in the Senate but in the Assembly. The

details of the ratification of this amendment are most illuminating.

As the amendment was originally introduced, and as it was adopted by the Senate, it not only increased the term of Supreme Judges to be elected in future from six to twelve years, but it gave a twelve-year term to Superior Judges who, in 1914, had been elected for six-year terms. By a political coincidence, at the 1914 election a number of police judges at San Francisco had been advanced from the police courts to the Superior Bench.

The amendment, from the standpoint of Union-Labor, whose policy is to resist extension of the terms of judges, was all wrong.

From the standpoint of those who would have judicial terms made longer, it was only partly wrong. These, while believing in the twelve-year term for Superior Judges, hesitated at giving judges who had been elected to serve for six years, twelve-year terms. Much as advocates of long terms for judges wished to see the tenure made longer, the cost of the change provided in the Finn amendment was regarded as too high.

But the San Francisco Union-Labor members resisted all attempts to have the amendment limited to the terms of judges to be elected in the future. And for a time they were successful.

The Senate adopted the amendment [164] just as Senator Finn had introduced it. Senator Carr of Los Angeles, however—the rank and file of labor will observe that Senator Carr is from Los Angeles—held the amend-

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164 The more important votes will be found in the tables in the appendix.

ment up on a motion to reconsider. Senator Finn resisted reconsideration, although such motions are not usually opposed. But Senator Carr, in spite of Senator Finn's opposition, forced a rehearing. That is all he did get. An attempt to amend out the objectionable features failed. The amendment as originally introduced was then adopted by a vote of 27 to 13.[165]

Of that vote, two details should not be lost sight of:

(1) Twenty-seven votes are required for the adoption of a constitutional amendment in the Senate.

(2) The seven Union-Labor members from San Francisco—Beban, Crowley, Finn, Flaherty, Gerdes, Scott and Wolfe—voted for the amendment.

Had any one of the seven voted against it, it would have received twenty-six votes only, which were not enough for its adoption. The amendment would not then have been "put over" in face of the objections of Organized Labor.[166]

Furthermore, State Senator Grant's legislative record indicates that he would have opposed the policy of Senator Finn's amendment.

Had Senator Grant occupied the seat from which he had been recalled and which Senator Wolfe occu-

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165 The final vote on the Finn Constitutional Amendment was as follows:

For Finn's amendment—Anderson, Ballard, **Beban**, Benson, Breed, Campbell, Cogswell, Cohn, **Crowley, Finn, Flaherty, Gerdes,** Hans, Jones, Kehoe, Lyon, Maddux, Mott, Owens, Purkitt, Rush, **Scott,** Shearer, Slater, Strobridge, Stuckenbruck, and **Wolfe**—27.

Against Finn's amendment—Benedict, Birdsall, Brown, Butler, Carr, Chandler, Duncan, Flint, Irwin, King, Luce, Thompson, and Tyrrell—13.

The names of the San Francisco members are printed in black letters.

166 Every member of the Senate voted on the amendment.

pied, Grant would to a certainty have voted against the Finn measure. This would have meant its defeat.

But, as it was, the amendment, with Senator Wolfe and the other six San Francisco members voting for it, received twenty-seven votes, which were enough for its adoption.

In the Assembly, opposition to the amendment continued. The Assembly Committee on Constitutional Amendments recommended that the provisions extending the terms of incumbents be struck out. But the San Francisco (Union Labor) members secured a minority committee recommendation that the amendment be adopted as it had come from the Senate. And the San Francisco delegation,[167] with a block of twelve votes,[168] forced the Assembly to accept the minority report.

Members from outside San Francisco who are not in sympathy with the political—and moral, for that mat-

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167 Held by certain labor leaders to be Labor's dependable representatives.

168 Marron, the thirteenth San Francisco member, was absent. The vote on the committee report was as follows, the names of the members of the San Francisco delegation being in black type:

For the minority report and in favor of giving Superior Judges now on the bench six years in addition to the terms for which they have been elected—Anderson, Ashley, Beck, Bruck, Burke, **Byrnes, Canepa,** Chamberlin, **Collins,** Ellis, Encell, Ferguson, Gebhart, Gelder, **Godsil,** Harris. **Hayes, J. J.;** Johnson, **Kennedy,** Kerr, Lyon, Manning, **McDonald, J. J.; McDonald, W. A.;** McPherson, Phillips, **Prendergast,** Rigdon, **Rodgers, Ryan,** Satterwhite, **Schmidt,** Scott, F. C.; Tabler, and Widenmann—35.

Against the minority report, and against giving Superior Judges the extra six years—Arnerich, Avey, Bartlett, Benton, Boude, Brown, Henry Ward; Browne, M. B.; Cary, Downing, Fish, Hawson, Hayes, D. R.; Judson, Kramer, Long, Lostutter, McCray, McKnight, Pettis, Phelps, Quinn, Rominger, Scott, C. E.; Scott, L. D.; Sharkey, Shartel, Sisson, Spengler, Wills, Wishard, Wright, H. W., and Wright, T. M.—32.

Take the San Francisco names from those who voted for the minority report, and note the effect of the San Francisco vote on legislation.

ter—ideals and standards of that community, did not hesitate to express their opinions of the amendment.

Hawson of Fresno stated that he could imagine nothing more contrary to the dictates of decency than to have San Francisco Superior Judges who had been elected for six-year terms asking to have the period of the incumbency extended to twelve years.

McKnight humorously referred to the mingling of oil and water on the part of the San Francisco delegation, the two alleged factions thereof having united in the scheme to double the terms of the incumbents of the San Francisco Superior Bench.

Brown of San Mateo, denouncing judges who campaign "in saloons and chippy dance halls," stated that he would favor enactment of a law to make it a felony for candidates for the bench to campaign at all.

Other members pointed out that were the amendment to be submitted to the electors, incumbent Superior Judges could very profitably raise a campaign fund of $100,000 to secure its ratification.

A majority of the members voting was enough to adopt the minority report. But to submit the amendment to the electors a two-thirds vote of the Assembly —fifty-four votes—was required. The San Francisco members could force acceptance of the minority report.

They could not force adoption of the Finn measure as it had come from the Senate. It was defeated by a vote of 30 to 35.[169]

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169 The vote by which the Finn amendment was defeated in the Assembly was as follows, the names of the San Francisco members being printed in black type:

For the Finn amendment—Ashley, Beck, Bruck, Burke, **Byrnes, Canepa,** Chamberlin, Chenoweth, **Collins,** Encell, Ferguson, **Godsil,**

The measure came up again a few days later on a motion for reconsideration. The San Francisco members had by this time decided they would, to get the amendment through, permit the provision to extend the terms of incumbents of the Superior Bench to be eliminated. Accordingly, San Francisco members who had contended three days before that to exclude incumbent judges from the benefits of a doubled term would take the very heart out of the amendment, now plead with the Assembly to make those very changes.

Members from outside San Francisco who would have the proceedings of the Legislature kept above the grade of a South-of-Market-Street joke, were at first amazed and then indignant at what they termed trifling with the Assembly.[170] But the block of San Francisco votes was once more too much for them. A majority vote was sufficient to amend the measure. With the

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Hayes, J. J.; Johnson, **Kennedy**, Kerr, Lyon, **McDonald, J. J.**; **McDonald, W. A.**; Manning, Phillips, **Prendergast**, Ream, Rigdon, **Ryan**, Salisbury, Satterwhite, **Schmitt**, Widenmann and Young —30.

Against the Finn amendment—Anderson, Arnerich, Bartlett, Benton, Boude, Brown, Henry Ward; Browne, M. B.; Cary, Downing, Edwards, L.; Edwards, R. G.; Fish, Gebhart, Harris, Hawson, Hayes, D. R.; Judson, Kramer, Long, Lostutter, McCray, McKnight, Meek, Mouser, Pettis, Phelps, Rominger, Scott, C. E.; Scott, L. D.; Sharkey, Shartel, Spengler, Tabler, Wishard, and Wright, H. W.—35.

170 Quinn of Humboldt, replying to Assemblyman Ryan's plea for the amendment, said:

"After he (Ryan) had succeeded in beating this recommendation." (that the terms of the incumbent Judges be not extended) said Quinn, "and the Assembly had then defeated the measure, he now asks to have the change made in order to get favorable action on the measure from the Assembly.

"Whenever I get in such a position in regard to any bill which I father that I would get up here one day and oppose striking out a portion of it, upon the ground that it is the 'Heart of the measure,' as stated by Mr. Ryan a few days ago, and after seeing my measure defeated would get up two days later and say that it didn't amount to anything anyway, and ask to have the 'Heart of the measure' stricken out, I would resign my seat in the Assembly."

San Francisco members voting "aye" where three days before they had voted "no," the change in the amendment was adopted.[171]

The Finn measure as amended provided merely that Superior Judges to be elected hereafter shall be elected for twelve instead of six years.

As amended, the Assembly finally adopted the measure. Fifty-four Assembly votes were required for its adoption. Ten of the San Francisco members voted. Every one of the ten voted for the amendment. With the support of the San Francisco ten, the measure received fifty-four votes.[172] Had one of the San Francisco members voted against it, it would have been defeated. The Senate, without opposition, concurred in the Assembly amendments.

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171 The vote by which the change in the amendment was adopted was as follows, the name of the San Francisco members being printed in black type:

For the change—Anderson, Bartlett, Beck, Boude, Browne, M. B.; Bruck, Burke, **Byrnes, Canepa,** Chamberlin, **Collins,** Conard, Dennett, Downing, Edwards, L.; Encell, Ferguson, Fish, Gelder, **Godsil,** Hayes, D. R.; **Hayes, J. J.;** Johnson, **Kennedy,** Kerr, Kramer, Long, Lyon, Manning, **McDonald, J. J.; McDonald, W. A.;** McKnight, McPherson, Mouser, Phelps, Phillips, **Prendergast,** Rigdon, **Rodgers, Ryan,** Salisbury, Satterwhite, **Schmitt,** Scott, C. E.; Scott, F. C.; Scott, L. D.; Sisson, Wishard, Wright, H. W.; Wright, T. M., and Young—51.

Against the change—Arnerich, Ashley, Benton, Brown, Henry Ward; Cary, Edwards, R. G.; Hawson, Judson, Lostutter, McCray, Quinn, Rominger, Sharkey, Tabler, and Wills—15.

172 The vote by which the Finn amendment was finally adopted in the Assembly was as follows, the names of the San Francisco members being printed in black type:

For the Finn amendment—Anderson, Arnerich, Ashley, Avey, Bartlett, Beck, Benton, Boude, Bruck, Burke, **Byrnes, Canepa,** Chenoweth, **Collins,** Conard, Ellis, Encell, Ferguson, Gebhart, Gelder, **Godsil,** Hayes, D. R.; **Hayes, J. J.;** Johnson, **Kennedy,** Kerr, Kramer, Long, Lyon, Manning, **McDonald, J. J.; McDonald, W. A.;** McKnight, McPherson, Meek, Mouser, Pettis, Phillips, Ream, Rigdon, Rominger, **Ryan, Salisbury,** Satterwhite, **Schmitt,** Scott, C. E.; Scott, F. C.; Sisson, Tabler, Widenmann, Wills, Wishardt, Wright, T. M., and Young—54.

Against the Finn amendment—Brown, Henry Ward; Browne, M. B.; Cary, Chamberlin, Dennett, Downing, Fish, Harris, Hawson, Judson, Lostutter, McCray, Phelps, Quinn, Scott, L. D.; Shartel, Spengler, Wright, H. W.—18.

The details of the adoption of the Finn Constitutional amendment are given at length for two reasons:

(1) That The People of California may be made to appreciate the influence of the San Francisco Senators and Assemblymen on legislation.

(2) That Labor may see, to use the words of Secretary-Treasurer Scharrenberg of the State Federation of Labor, how this constitutional amendment to double the length of the terms of Superior Judges, was "put over despite the protest of Organized Labor."

CHAPTER XIX.

San Francisco and the Legislature.

The California Legislature consists of a Senate of forty and an Assembly of eighty members. For twenty years prior to 1913, nine of the Senators and eighteen of the Assemblymen were elected from San Francisco. This gave San Francisco practically one-fourth of the Legislature. The San Francisco group in each House voted practically as a unit. In fact, at some sessions the San Francisco delegation in each House was accorded all the advantage of a standing committee, measures being referred to it as to a committee.

Such a proportion of the Legislature, acting as a unit, could not but have important part in shaping legislation. This legislation affected not San Francisco alone but the whole State. The County of Del Norte and the County of Imperial are as much affected by the work of the State Legislature as is San Francisco. These counties—and all other counties of the State for that matter—have as much interest in the character of the men whom San Francisco sends to the Legislature as they have in their own Senators and Assemblymen.

For the most part the San Francisco members have not been representative of the State, nor even of the city responsible for their presence in the Legislature. In the case of the great majority of them their votes and their influence have at the tests been cast not for,

but against, the best interests of their city and of the State.

This will not be seriously disputed. It is notorious, recognized, admitted. Those whom San Francisco sends to the Legislature are for the most part those whom honest men in the Legislature feel it necessary to watch.

That statement is not my own. It is taken from an editorial article printed in the San Francisco Chronicle.[173]

The State of California has tried to the limit of endurance to be patient with San Francisco's imposition of legislative delegations on it.

Nor is that statement my own. It is taken from an editorial article printed in the Fresno Republican.[174]

The San Francisco delegation acts not for San Francisco alone but for the whole State. The members from outside San Francisco, as has been well said, are a check upon the San Francisco members. This check is for the benefit, not of the State outside San Francisco alone, but of San Francisco as well. It would be to the disadvantage, not only to the outside districts, but to San Francisco, were that city to be allowed more legislative representatives than fair reapportionment calls for.

Nor is that statement my own. It is taken from an editorial article printed in the Sacramento Bee.[175]

The three statements selected from many similar, are just statements.

Those unfamiliar with the work of the Legislature cannot appreciate the influence for ill of a block of as

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173 Issue of March 15, 1911.

174 In discussing the proposed recall of Senator Grant.

175 Issue of March 25, 1911.

many as nine votes in the Senate and as many as eighteen in the Assembly.

To submit a constitutional amendment to the electors, for example, a two-thirds vote of each House is required, twenty-seven in the Senate, fifty-four in the Assembly. All that is necessary, therefore, to defeat a constitutional amendment is to secure twenty-seven negative votes in the Assembly, or fourteen negative votes in the Senate. Thus, when the San Francisco delegation wished to defeat a constitutional amendment they could, by securing, in addition to their own, five negative votes in the Senate or nine in the Assembly, prevent the amendment being submitted to the electors. Every one of the sixty-two Assemblymen from outside San Francisco and twenty-six of the State Senators, might support a constitutional amendment—but the nine San Francisco Senators, with the votes of five Senators from outside San Francisco, were still able to defeat it. A great majority of the people of the State, and even of San Francisco, might be demanding opportunity to pass on the amendment thus defeated. But the nine San Francisco Senators, if they could get five outside Senators to join with them, could deny that privilege, and on occasion did deny it.

Such situations actually occurred. For many years, for example, there was general demand throughout the State that free text-books be furnished the pupils of the public schools. This could not be done, however, without an amendment to the State Constitution. The San Francisco delegation opposed the submission of such an amendment, and session after session prevented its submission.

At the regular 1911 session a Free Text Book amendment was adopted in the Assembly and went to the Senate. In the Senate the San Francisco delegation easily demonstrated they had five votes in addition to their own against it.[176] When it came to vote seven of them were present to vote and four other Senators voted with them. The proponents of the measure recognized that they could not put the amendment through, and ceased their activities for its adoption.[177]

Another Free Text Book amendment came up at the special 1911 session, held in December of that year. This time the San Francisco delegation failed to win to their nine the votes of five outside members. They could get but three.[178] The Free Text Book amendment was thus submitted to the electors, coming to vote at the general election in November, 1912. The People

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176 In the report on Labor Legislation of the 1911 session, issued by the California State Federation of Labor, the failure to adopt Assembly Constitutional Amendment 16, the Free Text Book amendment, is made subject of special comment.

The Senate vote by which the amendment was refused adoption is given, and is followed by this comment:

> "It will be noted that seven San Francisco Senators voted against this measure, which is a part of the platform of the American Federation of Labor, and was endorsed by the convention of the California State Federation of Labor."

The seven San Francisco Senators referred to were Beban, Cassidy, Finn, Hare, Regan, Welsh and Wolfe.

177 A full account of the defeat of this amendment will be found in the "Story of the California Legislature of 1911."

178 The Senate vote by which the free Text Book amendment was at the special session of the 1911 Legislature, submitted to The People, was as follows, the names of the San Francisco members being in black type:

For the amendment—Senators Avey, Bell, Bills, Birdsall, Black, Boynton, Campbell, Cartwright, Curtin, Cutten, Estudillo, Gates, Hans, Hewitt, Hurd, Juilliard, Larkins, Lewis, Roseberry, Rush, Sanford, Shanahan, Stetson, Strobridge, Thompson, Walker, and Wright—27.

Against the amendment—Senators **Beban, Bryant, Burnett, Cassidy, Finn, Hare,** Holohan, Martinelli, **Regan,** Tyrrell, **Welch,** and **Wolfe**—12.

ratified it by a two-to-one vote, 343,443 voting for it and only 171,486 voting against it. But had the San Francisco delegation in the Senate been able to drag two more Senators from outside San Francisco to opposition of the amendment, the 343,443 Californians who wanted text books supplied through the State would not have been given opportunity to pass upon it.

In San Francisco the proportionate vote was practically the same as that throughout the State, 54,041 San Francisco electors voted for it, only 27,443 against it. Thus, the San Francisco members of the Legislature in blocking, session after session, the submission to the electors of a Free Text Book amendment not only thwarted the will of The People of the State of California, but the will of The People of the City of San Francisco who had sent them to the Legislature.

Much is said about the right of San Francisco to representation in the Legislature. San Francisco has that right, but such records as that made by the San Francisco members on the Free Text Book amendment indicate that The People of San Francisco are not represented.

For years, to employ another example, the San Francisco delegation in Senate and Assembly stood a practically solid block of votes against legislation which would interfere with the activities of race-track gamblers. Even at the 1909 session, when the gamblers were defeated, ten Assemblymen, all from San Francisco, and seven Senators, five from San Francisco, stood by the gamblers to the last, casting their votes against the bill.[179]

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[179] See "Story of the California Legislature of 1909," Chapters VI and VII.

In 1912 there was a State-wide vote on the question of race-track gambling. The vote was 353,070 against the gamblers, to only 149,864 for the gamblers. Even in San Francisco, the vote was against the gamblers by more than 5000, 43,962 against, to 38,641 for. Thus, The People of San Francisco, whose legislative delegation had for years made it possible for the gambling element to retain their hold upon the State, when given opportunity to vote on the issue, cast their votes against race-track gambling. The San Francisco legislative delegation did not represent The People of California on this issue, nor The People of San Francisco.

On many other issues have the San Francisco members of the Legislature blocked the will of The People of this State. For years the San Francisco delegation was able to defeat legislation to abolish prize-fighting.[180] In 1914 The People of California were given opportunity to vote upon an initiated anti-Prize Fight bill. They ratified it by a vote of 413,741 for, to 327,569 against.

For years The People of the State demanded the enactment of a practical Local Option law. Voting as a unit, the San Francisco delegation succeeded until 1911 in preventing the passage of such a law, although the bill was amended to exclude San Francisco from its provisions. The San Francisco delegation in effect said to The People of the counties outside San Francisco: "This bill does not affect San Francisco. But we Senators and Assemblymen from San Francisco are in a position to deny you the privilege of deciding for

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180 At the 1913 session the only San Francisco member to support the anti-Prize Fight bill was Senator Grant. This fact, during the recall election, was urged as a reason for his removal from office.

yourselves whether or not you want saloons in your communities. And we are going to deny you that privilege."

And they did.[181]

For thirty years The People of California demanded practical railroad regulation. In 1909 Senator Stetson introduced a measure to that end. The San Francisco delegation in the Senate to a man opposed the Stetson bill. The nine San Francisco votes were cast to substitute another measure for it. In this way the Stetson bill was defeated. The vote by which this was done was 18 for the Stetson bill, 22 against. Had three—one-third—of the nine San Francisco Senators at the 1909 session voted for the Stetson bill it would have been enacted.[182]

The unrepresentative San Francisco legislative delegation reflects political conditions in San Francisco. San Francisco is, and long has been, under the heels of underworld and corporation interests. Nine years ago San Francisco attempted to throw off the yoke, but, after three years of extraordinary effort, found the allied underworld and corporation elements too powerful for her. The contest was finally abandoned. So far as law-enforcement is concerned, San Francisco has ever since been in what is virtually a state of anarchy.

No community can realize its best development under

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181 For account of the defeat of the Local Option bill at the 1909 session, see "Story of the California Legislature of 1909." For account of the bill's passage in spite of the opposition of San Francisco Senators and Assemblymen, see "Story of the California Legislature of 1911."

182 For account of the defeat of the Stetson Railroad Regulation bill, see "Story of the California Legislature of 1909." For account of the passage of the Railroad Regulation act see "Story of the California Legislature of 1911."

such conditions. In spite of the city's superb position, San Francisco, exploited by underworld [183] and predatory corporations, has the humiliation of failing to keep pace with the development of the remainder of the State. One of the penalties has been loss of population, a loss which in the ordinary course of the city's development would have equaled the population of two Senatorial

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183 There are over 2,000 licensed saloons in San Francisco, and, according to reliable statements, more than 2,500 "blind pigs" that in more or less open defiance of law operate without municipal license, although many of them take out Federal licenses. The adverse influence of the saloon element alone has been tremendously costly to San Francisco. How costly is seen in a degree when conditions as they exist at San Francisco now, are compared with conditions during the period after the 1906 fire, when the saloons were closed. The following editorial articles from the San Francisco Chronicle describe the beneficial effect of saloon closing upon the city:

Issue of May 9, 1906: "San Francisco, for the past fortnight, has been absolutely free from disorder and virtually free from crimes of violence. There have been no street brawls. No drunken brute has beaten his wife. No gamblers have murdered each other in low resorts. Except for some dealings with sneak thieves, the occupation of the police courts is gone. It is a most impressive object lesson of the value to Society of the restriction of the liquor traffic. We are promised a continuance of this special condition for a considerable time to come, save only as drunken men may drift over from Oakland where the authorities have been so reckless as to allow saloons to open. We may be compelled to renew quarantine against Oakland.

"This demonstration that the saloons are responsible for all crimes of violence, makes it imperative that whenever they shall be allowed to re-open in this city, their license fees be fixed at a rate which will support the police department. There must be increased taxation. The public generally will protest against being taxed for the control or suspension of those forms of crime for which the saloons are now proved to be solely responsible. The public will look to the Board of Supervisors to place the cost of dealing with crimes of violence on the occupation which is responsible for all of it."

Issue of May 10, 1906: "If it were not for our neighbors, San Francisco would be a truly exemplary town. From having more saloons to the 1,000 inhabitants than any other county in the State, San Francisco has become a place where a man has to visit another county to get a drink. There is a general admission that the community would be a decided gainer if it could induce Oakland and San Mateo Counties to follow an excellent example of sticking strictly to soft drinks."

Issue of May 10, 1906: "Chief of Police Dinan makes no pretensions that we know of to pulpit oratory, but in his capacity as a conservator of the public peace, he has been moved to express sentiments which would be entirely in place in the mouth of any clergyman in America. What he said was this: 'We are determined to maintain the good order that has prevailed ever

districts. This has meant proportionate loss in legislative representation. Under reappointment of the State's legislative districts in 1911, San Francisco lost five Assemblymen and two State Senators. San Francisco's legislative representation is now thirteen instead of eighteen Assemblymen, seven instead of nine Senators.[184] With the character of San Francisco's legisla-

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since the disaster. The most effective way to do this is to keep the saloons closed and prevent the bringing in of liquor from neighboring cities.' There was more to the same effect, but the foregoing is sufficient. It is liquor, according to Chief Dinan, which is responsible for crimes of violence. It is, of course, responsible for much other crime which would not be committed except under the excitement produced by drink, but what Chief Dinan had in mind was crime resulting from drunken foolishness and quarrels. The question arises, why should Society endure and pay the cost of crime thus easily prevented? It is evidence of human inefficiency that we habitually do it. No saloon open, no crimes of violence. It would be altogether too much to expect San Francisco to become a Prohibition city—saloons will be re-opened in due time. It is not, however, too much to expect that when they open, they shall do so under the payment of a license fee large enough to pay the cost of protection against evils which they will create and incidentally to prevent the low groggeries from opening at all."

Issue of May 12, 1906: "San Francisco is a very orderly city, and that fact is by no means owing to a superabundant supply of guardians of the peace. It is due almost wholly to the closing of the saloons. As long as they can be kept from creating depredations on the public peace and purse, San Franciscans will be comparatively happy. Their troubles will begin when the redlight flashes again and the tinkle of the bar glass is heard on every street corner and often in half a dozen places on a block."

184 The San Francisco delegation demanded that no change be made in San Francisco's legislative representation. Later they seemed willing to compromise on eight Senators and sixteen Assemblymen. Of this last demand the Sacramento Bee, in its issue of March 25, 1911, said:

"San Francisco, entitled under the State Constitution governing reapportionment, to seven State Senators and fourteen Assemblymen, demands eight State Senators and sixteen Assemblymen.

"The reason for this claim is not apparent. Certainly San Francisco does not base her demand upon the character of the delegations which she sends to the Legislature.

"This week, for example, Senator Cassidy of San Francisco, known to wish to escape voting on the anti-Injunction bill, disappeared at the critical moment of the measure's passage.

"As a result of his disappearance, the Senate was held in idleness for nineteen hours, the members put to great inconvenience, and, in some cases, physical suffering. Incidentally, the State was made to suffer a loss of more than $1,000.

"A second San Francisco Senator, Hare, gave evidence of his respect for the Senate and his high regard for the responsibility

tive representation what it is, the whole State, including San Francisco, has gained by the reduction.[185]

But even with the reduction, the San Francisco group in each House is still a menacing block of votes with which The People of California must still reckon.

This solid block at the 1915 session, for example, defeated the University Dry Zone bill. Had only one

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of his position, by crawling out of a window, and making his escape.

"Two other San Francisco Senators, Finn and Beban, placed on honor as men and State Senators to be in the Senate Chamber at noon of the second day of the anti-Injunction bill deadlock, were not in the Chamber at the appointed hour. They came in three-quarters of an hour later.

"On the Assembly side, San Francisco is no better represented than in the Senate.

"Assemblyman Coghlan, for example, took occasion this week, while that body was in session, to call Assemblyman Randall a 'liar and a perjurer.'

"Mr. Randall is neither.

"But even though he were, Coghlan's language, on the floor of the Assembly Chamber, would have been unjustifiable.

"And yet, Cassidy, Hare, Finn, Beban and Coghlan are above the average of the men whom San Francisco sends to the Legislature.

"The San Francisco delegation acts not for San Francisco alone, but for the whole State. The members from outside San Francisco, as has been well said, are a check upon the San Francisco members. This check is for the benefit, not of the State outside San Francisco alone, but of San Francisco as well. It would be to the disadvantage, not only to the outside districts, but to San Francisco, were that city to be allowed more legislative representatives than fair reapportionment calls for.

"San Francisco, which benefits with the remainder of the State because of the check of the outside representatives upon her legislative delegation, will suffer proportionately should this check be weakened.

"San Francisco is entitled, under the Constitution, to seven Senators and fourteen Assemblymen. It would be bad law and poor policy to accord her more."

185 At the 1913 session, for example, San Francisco politicians, with only thirteen votes in the Assembly, failed to dictate the selection of Speaker. With eighteen votes they would have named the Speaker and dictated the organization of the Assembly. With nine votes in the Senate the San Francisco delegation was able in 1911 to force a compromise in the enactment of the Local Option law. With only seven Senate votes in 1913, and thirteen Assembly votes, the San Francisco members not only failed in their efforts to prevent the passage of the Redlight Abatement act, but failed to amend it. They also failed to have San Francisco excluded from the provisions of the act which requires saloons to be closed from the hours of 2 a. m. to 6 a. m.

of the San Francisco members voted for this bill, it would have passed the Senate. Had the San Francisco delegation divided even so slightly on the Local Option issue, the county unit of prohibition would, at the 1915 session, have been established. The San Francisco Senate delegation's solid support of the Finn constitutional amendment to extend the terms of Superior Judges elected for six years, to twelve years, made possible the adoption by the Senate of the amendment in the form in which Finn had first offered it.

Even more important is the influence of this solid block of votes upon members from outside San Francisco.

Most members go to Sacramento with some measure which their constituents expect them to get through. Some of these measures are unimportant, upon the defeat or passage of others depends the future of whole districts. The people of Sutter county, for example, held at the 1915 session that the enactment of certain reclamation measures would mean absolute ruin for large areas of fertile districts. Their representative was charged with the defeat or a modification of those measures. The San Francisco members knew little of the merits of the controversy, the majority of them cared less, but they had the balance of power in this issue. Upon their votes hung the disposition of those reclamation bills. Sutter county was just then greatly interested—if Sutter County but knew it—in the character of the members from San Francisco. It is quite conceivable, under the circumstances, that Sutter county's representative would be constrained during the session to treat the San Francisco delegation with the most courteous consideration.

It is not exaggerating the situation to say that members from outside San Francisco with important measures to get through, in the great majority of cases studiously avoid giving offense to the San Francisco block of votes in Senate and Assembly.

Once in the history of the Legislature, 1911, the outside members of the Assembly organized to resist the efforts of the San Francisco members to secure greater legislative representation for San Francisco than San Francisco's population warranted. It is not improbable, should there be no improvement in the personnel of the San Francisco legislative delegation, that at some session the members from outside districts will organize the Legislature without consideration of San Francisco or the San Francisco delegation. The outside members have the power to do this. In so doing they would have the applause and support, not only of the decent citizenry of the outside districts, but of the decent citizenry of San Francisco.

The character of the San Francisco delegations in Senate and Assembly is reflected upon the legislative attaches.

Under the present patronage system, the attaches are a few degrees lower in ability and purpose than the legislators who get them on the payroll. Thirteen Assemblymen and seven Senators name a large number of the Legislature's helpers. While a few attaches from San Francisco have proved competent and most effective, the great majority of them could very well be dispensed with. At the 1915 session, for example, the wife of one San Francisco member and the sister of another who had been placed on the legislative payroll, flatly

refused to work, apparently on the ground that the wife's husband was a lawmaker and a well-known baseball player, while the sister was credited with having done much to promote the Progressive cause at San Francisco. It is interesting to note, however, that both these protesting ladies were given the alternative of going to work, or being dismissed. They went to work.

A popular disposition of San Francisco attaches is to assign them to jobs as assistant sergeants-at-arms. At the 1915 session no less than fifteen San Franciscans served in that capacity.

Since the adoption of the Initiative and Referendum, the State has its remedy against such blocks of votes in the Legislature as are sent from San Francisco. Nine San Francisco Senators could not now, for example, deny The People the privilege of voting on the question of free text-books. Should such a thing be attempted, the public would at once resort to the Initiative. At the 1913 session San Francisco Senators and Assemblymen, in the face of general demand for such a law, did succeed in blocking the passage of a bill to outlaw prize-fighting. Formerly the public would have been helpless. They are not helpless now. The electors, resorting to the Initiative, put an anti-Prize Fight law on the statute books. Should the reactionary element ever secure control of the Legislature, and attempt to conduct the State's business as they did prior to 1910, it is unthinkable that the reputable people of the State would not resort to the Initiative and the Referendum to restrain them.

But even with the Initiative and Referendum available, San Francisco presents to the State a problem even

more serious than that of the San Francisco legislative delegation.

In a community where the laws are not enforced against underworld infringement, it is not only possible to make corrupt use of the Initiative and Referendum in the interest of underworld exploiters with entire safety to those so corrupting them, but the Initiative and the Referendum have actually been so corrupted and used.

In 1912, for example, after race-track gambling had been outlawed by legislative enactment, the gamblers resorted to the Initiative to restore race-track gambling. They called their measure "An act to *prohibit* book-making and pool-selling." Representing it to be a measure to *prohibit* gambling, and resorting in some cases to forgery,[186] they secured enough signatures to have the bill put on the ballot.

The measure was defeated at the polls, but to defeat it required a State-wide campaign which involved a large amount of labor and expense which had to be borne by a few individuals.

Again several measures passed by the 1913 Legislature were held up under the Referendum. The greater part of the signatures to the Referendum petitions were secured at San Francisco. It developed that thousands of names on the San Francisco petitions had been forged. Theodore Kytka, the handwriting expert, is authority for the statement that had all the forged signatures been eliminated from the petition under which

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186 At Sacramento one of the men who forged names to the gamblers Initiative petition was trapped. He finally plead guilty. He was immediately released.

one of the measures, the Redlight Abatement act, was held up, there would not have remained enough valid signatures to invoke the Referendum against the act.

The forgers were known; their crimes were established. But it was not until Governor Johnson called upon the State Attorney-General to press the cases that anything resembling effective prosecution resulted. A number of the defendants pleaded guilty. One was sentenced to a term in State prison. He did not go to State prison, however. He was, after a short term in the county jail, released. The others were freed on probation.

It has been demonstrated that at San Francisco direct legislation petitions can be forged in the interest of underworld exploiters without danger to those responsible for the forgeries.

That the forging of direct legislation petitions will be continued goes without saying. To be sure, the 1915 Legislature enacted laws imposing severe penalties for corrupt use of the Initiative and Referendum. But the State is still helpless against communities in which the laws are not enforced.

Here again does the condition of lawlessness which exists at San Francisco menace the State. The condition is one which affects not only San Francisco, but all California. More and more is it pressed home to The People of the State that a condition of lawlessness cannot exist at the State's chief city without the whole State suffering.

Such being the case, the State's patience with San Francisco's impositions may one day come to an end, or, as the Fresno Republican puts it, "the State's im-

patience may pass the limit of endurance." Should that time ever come, a remedy has been suggested. One of the few men whom San Francisco has sent to the Legislature who took a stand against San Francisco conditions, Assemblyman Arthur Joel, has indicated a procedure which may be followed.

At the 1911 session Assemblyman Joel introduced resolutions [187] calling for legislative investigation of the

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187 The Joel resolutions were as follows:

"Whereas, Charges have been publicly made that various forms of gambling forbidden by the laws of this State, are being openly conducted and carried on in the city and county of San Francisco; and

"Whereas, It has been charged and admitted by the chief of police of said city and county that many of the officers and members of said department were either incompetent, negligent or corrupt in the performance of their duties, and that in either event, they were unfit to be in the public service; and

"Whereas, It is also charged that said officers and members of the police department have agreed with the persons conducting said gambling games to allow said games to run openly and without interference and in violation of the laws of this State; and

"Whereas, It is also charged that corruption in many forms exists in the ranks of the officers, and members of said department in dealing with people who are violating the laws of this State; and

"Whereas, Such charges have been given wide publicity in the press of this State and of other States, and should, therefore, be investigated in order that legislation may be enacted that will enable the police department of said city and county of San Francisco to suppress such gambling games and to root out such corruption in the ranks of the officers and members of said police department, and to secure the conviction and punishment of the guilty parties, and to recommend such legislative action as will allow the said police department and the officials immediately in control thereof, and other officials of said city and county to suppress such gambling games and such corruption and to prevent a repetition of the same and to punish the offenders; therefore, be it

"Resolved, That a select committee of five members of the Assembly be appointed by the Speaker to thoroughly investigate said charges, at once, and to report its findings to this House, and that said committee have full power to subpoena witnesses, administer oaths, take testimony, send for persons, books, telegrams and papers and any other evidence that it may in its judgment require, and to employ such assistance as may be necessary, and that it have leave to sit at the city and county of San Francisco during the session of the Assembly, together with such other powers as shall be necessary for a full performance of its duties, and to report fully and as speedily as possible with such recommendations as to necessary legislation in the premises as it may deem proper."

San Francisco Police Department. The proposed investigation promised the exposure and publicity which must come before there will be correction. But the Joel resolutions were not adopted. The investigation was not held.

But should San Francisco's impositions press the State's impatience to the limit of endurance, the way for correction which Assemblyman Joel indicated may be followed.

CHAPTER XX.

Legislature's Work Left Uncompleted.

The 1913 session of the Legislature adjourned with work uncompleted, which it was popularly supposed would be taken up and disposed of at the 1915 session. But in not a single instance was this realized.

The State's most immediate problem, that of revenue and taxation, left unsolved at the 1911 and 1913 sessions, was left unsolved at the 1915 session. To be sure, the way was provided for practical work in 1917, but the character of that work will be governed by the character of the 1917 Legislature. The corrupting influences in State government have in this issue much at stake. That they will resort to every method known to corporation politicians to control the 1917 Legislature must be recognized. The worth of the plan for the solution of the revenue and taxation problem at the 1917 session is yet to be demonstrated.

The 1915 Legislature added nothing to the solution of the problem of the alien ownership and control of land. The 1913 Legislature made a beginning by limiting land ownership by aliens not eligible to citizenship to the land-holding privileges provided for in the then existing treaties. This excluded most Asiatics from the privileges of land ownership. The law was aimed at the Japanese, and affected them almost exclusively. The original measure did not permit leasing of land to such aliens. An amendment was adopted, however, to

permit leasing for periods not to exceed three years.[187a] It was generally understood at the 1913 session that when the Legislature met in 1915 this leasing clause would be eliminated. It was not. The only expressed demand for its removal came from organized labor.

As has been shown, organized labor, when depending alone upon the so-called Union-Labor Senators and Assemblymen, can accomplish nothing. The groups outside the Union-Labor party, whose backing had at the 1911 and 1913 sessions made the enactment of labor-supported legislation possible, did not regard the time opportune for renewing agitation to exclude the Japanese from the soil. As the 1913 Legislature had in effect dealt with only the Japanese phase of the problem, the removing of the leasing clause would have affected—and offended—Japanese alone.

There is no good reason, however, why such legislation should be so worded as to offend the Japanese.

California's alien-ownership of land problem is an alien-ownership problem and not a Japanese problem. Should ever Legislature convene in California broad enough to deal with the issue as what it is, namely, an alien-ownership problem, there will be no trouble with the Japanese over its solution. When the problem is dealt with on its merits there will be no discrimination against the Japanese or any other people. The offense given the Japanese thus far has been the discrimination against them as a race. There has been discrimination because of the influence of interests alien to California. Occupation of California soil by the

187a See "Story of the California Legislature of 1913."

Japanese is a menace of the future. Exploitation of California soil under alien-ownership or control other than Asiatic is a fact of to-day. It was demonstrated at the session of 1913 that the fact of to-day is what stands in the way of effective dealing with the menace of the future.[188]

The only suggestion at solution of the problem at the 1915 session was that the leasing clause be struck from the Act of 1913. This came from Organized Labor. Mr. Paul Scharrenberg, who had the matter in charge, experienced the greatest difficulty in even getting the bill to eliminate the leasing clause introduced. And when the bill was introduced, its sponsor was not a Union-Labor member, or even a San Francisco member, but Assemblyman Shartel from the mountains of Modoc county.[189] The measure went to the Assembly Committee on Federal Relations. The farming interests did not appear before the committee to advocate its passage, nor were there any of the important public hearings which marked consideration of the problem at the 1913 session. The Associated anti-Japanese Leagues appeared for it, as did the anti-Jap Laundry League of San Francisco. Representatives of these organizations stated their "interest in the measure was on economic grounds alone" and the bill's passage, they held, would "relieve our agricultural pursuits from the

188 See "Story of the California Legislature of 1913." Chapter XVIII.

189 Scharrenberg had the same difficulty in securing introduction of the anti-Injunction bill. This measure passed the 1911 Senate, and came within a few votes of getting through the 1913 Senate. Finally, after many refusals of members to introduce it, Senator Lyon of Los Angeles became its sponsor. The measure did not come to vote.

danger of Asiatic competition, and make it easier for the cities and towns to resist successfully a centralized Asiatic menace."

The bill remained in committee until the last day of the session, when it was returned to the House without recommendation.

No attempt was made to restrain the waste of California soil by gold-dredging. At the 1913 session a bill to that end—after most vigorous opposition—failed to pass the Senate. The problem was left to the 1915 session. But in 1915 the matter was not considered at all, no bill to that end being introduced.[190]

Another failure of the 1915 Legislature to enact legislation attempted in 1913, was that governing fire insurance rating. A bill providing for this reform was defeated in 1913, only by the most extraordinary efforts of the agents of the Board of Fire Underwriters of the

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190 See "Story of the California Legislature of 1913." The 1913 measure to prevent sacrifice of soil suitable for agricultural purposes to gold dredging, was introduced by Senator Kehoe. Outside the Sacramento Bee, it had little newspaper support. The San Francisco Examiner went so far as to hint at questionable motives back of its introduction. The bill had, however, the endorsement of such men as Governor George C. Pardee, Congressman William Kent and Francis J. Heney. Nevertheless, in an editorial article printed July 13, 1915, under the heading: "Does this kind of thing pay?," the San Francisco Examiner says:

> "A dredge operator has purchased 1,500 acres of farm land—fertile and under ditch—in Sierra county and will tear up the soil to get the placer gold in it. When this work has been done, the operator may have recovered several hundred thousands in gold. The fertile soil will be ruined. Suppose the dredger takes out $1,500,000 in gold. Fifteen hundred acres of fertile irrigated farm land would produce that much wealth in ten years and the land would still lie ready to the use of man. It seems to us poor economics to destroy fertile lands at any time in order to get a single quick profit by the destruction."

Pacific.[191] In spite of their efforts, however, the bill came within three votes of passing the 1913 Senate.

There was nothing particularly radical in either the measure introduced in 1913, or that introduced in 1915. Both were introduced by Kehoe of Humboldt. Both provided in effect that the schedules which fire insurance companies use in fixing rates shall be accessible to the public.[191]

The underwriters contend that insurance rates are fixed according to exact formula, which they insist is fair to all. The Kehoe bill provided that this formula —or rating schedule—should be filed with the Insurance Commissioner and become public property. All such rating schedules were required to show the considerations which are used in arriving at the various rates. Every company and its agents, once the company had elected to follow a given rating schedule, were required to abide by such schedule until another should be substituted. It was left optional with the company to file its own schedule, or adopt the schedule of a rating bureau.

The purpose of the Kehoe bill was to prevent discrimination in insurance rates between individuals and between communities. The proponents of the Kehoe bill contended that it would do away with most of the admitted evils of fire insurance.

The measure was not an innovation. Similar laws are in force in other States. In Texas, for example, it is claimed that such a law has resulted in reduction of insurance rates one-seventh. As the fire insurance

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191 See Story of the California Legislature of 1913, chapters XIV, XV.

premiums paid in California in 1914 amounted to $16,000,000, a similar reduction in this State would mean a saving of over $2,000,000 a year for those who take out fire insurance. Such a saving would compare favorably with the reductions made in railroad rates by the State Railroad Commission. Indeed, the Kehoe bill applied practically the same principles to fire insurance which the Railroad Regulation law applies to railroading.

The campaign against the 1915 bill began long before the Legislature convened. An agent of the underwriters went up and down the State endeavoring to undermine plans for the introduction of such legislation. He was at Los Angeles; San Francisco; and Eureka, Senator Kehoe's home. But his efforts were without success.

Senator Kehoe introduced the bill. After the measure had been introduced, its opponents adopted other tactics.

Letters and telegrams condemning the measure began to pour in upon the members. These communications came from banks, large business houses, and chambers of commerce.

The similarity of these letters and telegrams showed pretty conclusively that they had had common inspiration. The testing out of some of them showed that many of the writers had not read the bill, nor were they familiar with its terms, or with the conditions which the Legislature was attempting to correct.

Nevertheless, the business man in the Legislature who receives a letter from a business associate urging him to vote against a given measure on the ground that it is "vicious," not infrequently tends toward taking

the line of least resistance; demanding, What's the use?; and voting against a measure which he realizes should be enacted for the State's best interest.

While the measure was pending a representative of the underwriters went to Eureka to enlist the opposition of Kehoe's associates. Their evident thought was that Kehoe might, through his friends, be induced to cease his activities for such legislation.

The first intimation that Kehoe had of this move was the receipt of letters from friends at Eureka warning him of what was going on. These friends assured Kehoe that the protests which might be expected from Eureka would not be expressive of the sentiments of the business interests of that community, nor of the people. As predicted, the protests soon came in. Kehoe was urged from home to drop the Insurance Rating bill. Similar letters and telegrams from Eureka also reached other members. But the campaign of opposition and the methods employed were too transparent to mislead any one.[192]

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192 One of the strongest protests against the enactment of the Kehoe Insurance Rating bill came from the so-called "Civic League of Improvement Clubs and Associations of San Francisco." The organization and its activities are not unknown to those who have followed conditions in that city. At the head of the organization as president, is Dr. Julius Rosenstirn.

Dr. Julius Rosenstirn was at the head, practically the originator, and certainly the most constant defender of San Francisco's notorious "municipal clinic." One of the things which can be said to San Francisco's advantage is that this "clinic" is no longer tolerated. Dr. Julius Rosenstirn was head and front of the opposition to the Redlight Abatement act when that measure was before the electors last year. He wrote the adverse minority report of the Redlight Abatement Committee of the San Francisco Commonwealth Club. The most significant fact about this report is that a document containing such glaring inaccuracies—if not misrepresentations—could come from an organization of the repute of the Commonwealth Club of San Francisco.

The Civic League of Improvement Clubs and Associations of

Then came committee delays, not unlike those which had attended consideration of the 1913 measure. When, however, the bill was finally brought to vote in the Senate Committee on Insurance, it was by vote of 6 to 4 sent back to the Senate with the recommendation that it become a law. Senators Thompson, Butler, Benedict, Kehoe, Ballard and Slater voted for this recommendation. Senators Wolfe, Shearer, Cohn and Crowley voted against it.

On the floor of the Senate the fight against the bill was led by Wolfe of San Francisco; Cohn of Sacramento, himself interested in an insurance company; and Campbell of San Luis Obispo.

The most extraordinary feature of their presentation was that none of them was agreed as to what the effect of the passage of the bill would be. Cohn argued that it would be ruinous to the insurance companies. Wolfe held that instead of saving the people money it would have exactly the opposite effect. Campbell held to the theory that under the measure the Insurance Commissioner would be required to fix insurance rates. As there was no such provision in the bill, and nothing can be read into it to give the Insurance Commissioner that power, Campbell's argument fell flat.

Campbell made much of the fact that none who pay insurance rates had appeared before committees to advocate the measure's passage. That is, indeed, true, but the probabilities are that not one rate-payer in a hun-

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San Francisco, of course, found against the Redlight Abatement act, and advised the electors to vote against it.

And when the Kehoe Rating Insurance bill was before the 1915 Senate, we find the "Civic League of Improvement Clubs and Associations," in an entirely new field of endeavor, urging against its passage.

dred knew that such a bill was pending. Even though they had, without organization it was practically impossible for them to have been represented at committee hearings. The fact that the rate-payers had not appeared merely illustrates again the inability of the great mass of the people to be represented adequately at legislative hearings. The paying-public was not represented at insurance hearings any more than it is represented when other matters of vital public interest are under consideration.

But the insurance companies were well represented, precisely as the railroad companies, the gas companies, the telephone companies, the water companies and all other large interests are well represented when matters affecting the public on one side and large concerns on the other, are before the Legislature.

When all was said and done, none of those who spoke against the bill met the arguments which were advanced in favor of its passage, nor were they able to give convincing reasons in support of their contention that the bill should be defeated.[193]

Kehoe in closing the debate showed the utter inconsistency of those who were opposing the measure.

It was generally known that the block of San Fran-

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193 Senator Butler of Los Angeles, in urging the bill's passage, emphasized the inconsistency of its opponents.

"If," said Butler, "this bill will do all that the gentlemen opposing it have said of it it is a marvel. According to its opponents, the bill will:

"(1) Raise insurance rates to such a point that the insurers will not be able to carry insurance.

"(2) Reduce rates to such an extent that no insurance company will want to do business in California.

"(3) Wipe out competition so that companies can charge extortionate rates.

"(4) Bring about such keen competition that insurance companies will be forced out of business."

cisco votes was to be cast against the bill. Kehoe expressed astonishment that the San Francisco members should oppose such a measure. Conditions at San Francisco are such, he contended, that that community, more than any other in the State, would profit by the enactment of such a law. Two years before, San Franciscans had been responsible for the introduction of bills[194] which outlawed combinations of insurance companies. The temper of San Francisco was such at the time, that the Fire Underwriters were prepared to accept such legislation as the Kehoe bill to escape the more drastic provisions of the San Francisco measures. Kehoe stated that out of every $100 San Francisco pays for fire insurance premiums, only $17 is paid back as fire losses.

Wolfe interrupted Kehoe to ask whether, if he were from San Francisco, he would be governed by the argument which Kehoe was making or by the expressions of the San Francisco Chamber of Commerce and large interests.

"I would," replied Kehoe, "use my own judgment. You know, Senator Wolfe, how much value there is to be placed upon such expressions. It is surprising to me that members of the San Francisco delegation, at

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194 These bills were introduced at the 1913 session by Gerdes of San Francisco, who, in 1915, voted against the Kehoe bill. They had been drawn by former Chief Justice Matt I. Sullivan, who was acting for the San Francisco Mission Promotion Association. The Sullivan bills outlawed such organizations as the Board of Fire Underwriters of the Pacific. The measures provided that every contract and policy of insurance should be construed to mean that in the event of loss or damage thereunder, the insured could, in addition to the actual loss or damage suffered, recover twenty-five per cent. of the amount of such actual loss if he could show that the insurance company in which he was insured were a member of any insurance-company combine. See "Story of the California Legislature of 1913," Chapters XIV and XV.

the request of the big fellows, should vote in opposition to the interests of the little fellows who cannot defend themselves."

Kehoe contended that the passage of the bill would result in saving for the people of California in two ways:

(1) A saving in insurance rates. The establishment of uniform rates under such laws in other States has resulted in important reductions. In Texas, Kehoe contended, the rates had been reduced one-seventh. The same reduction in California would mean a saving to insurance-rate payers of $2,000,000 a year.

(2) When the elements of fire hazard are generally known, he held, communities and individuals would guard against such hazards. This would mean reduction in fire losses, and again result in saving.

"Disposition of the $2,000,000 which can be saved the insuring public," said Kehoe, in conclusion, "is in the hands of this Senate. You can throw the $2,000,000 to the insurance companies, or you can throw it to the insuring public."

The Senate by a vote of 14 to 24 [195] refused the bill passage.

Following the defeat of the bill, Senator Kehoe introduced a resolution calling for the appointment of a

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195 The vote on the Kehoe Insurance Rating bill was as follows, the names of the San Francisco members being printed in black type:

For the Kehoe bill—Anderson, Ballard, Benedict, Birdsall, Brown, Butler, Carr, Chandler, Duncan, Jones, Kehoe, Lyon, Mott, and Thompson—14.

Against the Kehoe bill—**Beban**, Benson, Breed, Campbell, Cogswell, Cohn, **Crowley, Finn, Flaherty**, Flint, **Gerdes**, Hans, Irwin, Luce, Maddux, Owens, Purkitt, **Scott**, Shearer, Slater, Strobridge, Stuckenbruck, Tyrrell and **Wolfe**—24.

committee of five Senators to investigate into the activities of fire insurance associations in California. The resolutions provided that the committee should report at the 1917 session. For the purposes of the investigation, $1000 was provided out of the Senate's contingent fund.

As the resolution carried an appropriation from the contingent fund, it went to the Committee on Contingent Expenses. The committee consisted of Beban, Purkett and Lyon. Lyon was for the resolution. Purkett was against it. Beban joined with Lyon in voting to return it to the Senate, but reserved the right to vote against it on the Senate floor. The votes of Lyon and Beban sent the resolution back to the Senate with the recommendation that it be adopted.

The insurance lobby flocked back to Sacramento. They resisted the proposed investigation as bitterly as they had opposed the passage of the Insurance Rating bill.

For its adoption, the resolution required the votes of a majority of those voting only, not a majority vote of the Senate.

When it came up in the Senate, Wolfe and Campbell led the opposition. Kehoe, Benson and Butler urged its adoption. The roll-call showed fifteen Senators present for it; fifteen against it.

Kehoe moved a call of the Senate that the absent members might be brought in. The fight was kept up until after 1 o'clock in the morning. At the final vote the Insurance Lobby again won by narrow margin.

Seventeen Senators voted for the Kehoe resolution, eighteen voted against it.[196]

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196 The vote by which the Kehoe resolution was refused adoption was as follows:

For the resolution—Anderson, Benedict, Benson, Birdsall, Brown, Butler, Carr, Chandler, Cogswell, Duncan, Jones, Kehoe, King, Luce, Maddux, Slater, and Thompson—17.

Against the resolution—Ballard, Beban, Breed, Campbell, Cohn, Crowley, Finn, Flaherty, Flint, Irwin, Mott, Owens, Purkitt, Scott, Shearer, Stuckenbruck, Tyrrell, and Wolfe—18.

CHAPTER XXI.

Conclusion.

The 1915 Legislature has been described as stupid but honest. Ineffective better terms it. The same could have been said of the session of 1913. Both sessions demonstrated that the California Legislature, when confronted with large problems, breaks down, is ineffective. As at present constituted, it has neither the time nor the machinery to meet the obligations which are imposed upon it.[197]

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197 This was strikingly illustrated in the impeachment proceedings against Superior Judge John L. Childs of Del Norte County. Grave charges had been made against Childs by certain Del Norte county people. The complainants requested that the Legislature institute impeachment proceedings. Such proceedings originate in the Assembly, and, if the Assembly find impeachment trial warranted, are tried in the Senate. The Assembly delegated the matter to the Assembly Judiciary Committee, and the Judiciary Committee delegated it to a sub-committee of five members consisting of Johnson, Brown of San Mateo, Edwards, McKnight and Satterwhite.

This sub-committee held exhaustive hearings which occupied several weeks. For a time, the investigation over-shadowed the regular work of the Legislature. Because of the committee's work the period of the session was prolonged for a week or more. Had the sub-committee recommended impeachment, the matter would have been thrashed out on the floor of the Assembly which would have required several months. Had the Assembly decided for impeachment trial, the trial before the Senate would have required additional months of time. The Legislature would have had to remain in session indefinitely, the members giving their time without compensation. As the case developed, the fear was frankly expressed that trial might be ordered. It was generally admitted that the Legislature could not handle such a trial. To everybody's relief, however, the sub-committee recommended that Childs be not impeached. This recommendation saved the situation. Nevertheless the committee, after setting forth their findings, which were largely against Judge Childs, concluded: "That said Childs has not been a model judge. He has taken altogether too active a part in politics; he has participated too frequently in the business activities and enterprises in his county and to such an extent that the same has interfered with his judicial duties and responsibilities, and his conduct as a jurist, as testified to by said Childs

Admittedly, the old "boodle" methods were not practised at the 1915 session.

Formerly, a seat in the Senate was regarded as worth at least $20,000 a session. As a surer means of holding the legislators than direct payment of bribe money, special-privilege-seeking concerns, in the old days, sent up their able lawyers to sit as legislators to forward the designs, or protect the interests of their employers. Whatever may be thought of such methods, the presence of clever adventurers and corporation lawyers in the Legislature at least saved the sessions from the charge of "stupidity" and the sneer of "honesty."

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himself, more than any other witness, justifies much criticism of his conduct. His judicial indiscretions and improprieties have been of such a degree and character and frequency that we deem that his future usefulness as Superior Judge of Del Norte county is seriously and permanently impaired, but your sub-committee are of the opinion that he has not been dishonest as a Judge or committed actions showing moral turpitude."

A very considerable minority of the Judiciary Committee refused to concur in this view, but held that impeachment trial should be ordered.

"Whether or no," said this minority, "the Senate may deem the acts in question as proper, or as too trivial for consideration, is no concern of the Assembly. In our opinion the misconduct is far from trivial. It is for this body to determine what is the proper policy to be established by the Legislature in cases of this kind, and to determine what standard of conduct should be insisted upon in judicial officers, and if we believe that the accused has been guilty of impeachable misconduct, it is our duty so to declare and leave to the Senate its own responsibility. The question presented by the report of the sub-committee is whether its findings justify the filing of articles of impeachment. In this regard we are compelled to accept the findings and can not go behind them without reviewing the great mass of testimony introduced. In view of the findings made by the sub-committee, the undersigned minority can not subscribe to the report, asking that the said John L. Childs be not impeached, but on the contrary believe that the findings warrant articles of impeachment being presented against the said John L. Childs by this Assembly, and we do so recommend."

For complete findings in Childs' case, see Assembly Journal for May 6, 1915. The investigation cost the State $5,112.15, exclusive of the time of the Assembly. The expenses of trial before the Senate would have been greatly in excess of that sum. The incident demonstrated that impeachment proceedings before the California State Legislature are impracticable. The Legislature has neither the time nor the machinery for effective prosecution of an impeachment case.

At the 1915 session, Senate leaders did not sit down to gambling games with race-track gamblers to earn easy winnings up to an amount of the selling price of a vote in favor of the gambling element.

If any such payments were made in Senate or Assembly, they were made as "attorneys' fees" to such members as would accept such (from the standpoint of some lawyers) legitimate compensation, for protecting gamblers, liquor concerns and other vice interests. Nor were there brilliant corporation attorneys on the floor of Senate and Assembly to guard large interests. The corporations confined such talent to their lobby.

In these respects the personnel of the 1915 Legislature was decidedly better than that of the Legislatures of the old machine days. The average man could get a squarer deal—at any rate a more respectful hearing—than was possible when the "machine" ruled.

But the Legislature of 1915 failed to do its work. Because of this failure, and similar failures of previous Legislatures, the public suffers and the special-privilege-enjoying interests are able to strengthen their position and gain ground. The drift cannot continue indefinitely. That, all groups recognize.

Thoughtful members of the 1913 Legislature recognized that the most important problem before the 1913 Legislature was the Legislature itself. On the theory that the 1915 Legislature would follow up the work, members of the 1913 session undertook to find solution.[198] Several constitutional amendments proposing radical changes in the legislative system were intro-

[198] See "Story of the California Legislature of 1913," Chapter XXIX.

duced as basis for consideration and debate. The most discussed proposed a Legislature of one House to consist of forty members, who would be in practically continuous session. It was thought that the 1915 Legislature would, because of the discussion thus created, have something better to offer. But the 1915 Legislature dully left the issue unconsidered.

To be sure, Senator A. E. Campbell did introduce a constitutional amendment similar to that which had been proposed in 1913 to put the Legislature on the one-House basis. But the measure got no further than the committee to which it was referred.[199]

As another solution of the problem complete revision of the State Constitution is recommended. It is contended that an effectively working Legislature is im-

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199 The expression of the press throughout the State has been adverse to the one-House plan. This attitude was well presented in the Pasadena Star, in its issue of January 18, 1915. The Star said:

"Attempt has been made, in several States, to abolish the upper house of the State Legislatures and have but one legislative house. These movements originate in and proceed upon the theory that the two houses of Legislatures often are in conflict over projected legislation, and that these clashes either greatly delay some legislation or else force compromises that divest the proposed laws of much of their wholesomeness. There is a measure of strength in this argument. And yet there is no assurance that a Legislature composed of but one house, might not become deadlocked and filibustered into just as perplexing delays and compromises, through differences of opinion among its members.

"It would seem that, with all members of both houses of all legislative bodies in this country—National and State—now elected by direct vote of the people, there is not much to be feared from reactionism in either branch of any Legislature, as members of both legislative houses are equally under bond to the people to observe their pledges and to work in accordance with the people's will, insofar as that will may be known.

"The two-house legislative system tends toward greater deliberation in legislating. Progressive in governmental affairs as Americans are to-day, this progressiveness should not be misconstrued as being synonymous with precipitancy. Our progressiveness, to be sound, useful and enduring, must be tempered with deliberation and must be matured by counseling. Two legislative houses may and oftentimes do exert reflex influences upon each other, which impel both houses to strive to effect the best legislation possible, as flawless as possible, and representing matured judgment."

possible under the present Constitution. It is held—and there is good reason for the contention—that the Constitution is not a constitution, but a complex and detailed codex of laws.

> "No legislation," says the Fresno Republican,[200] "on a subject mentioned in the constitution is ordinarily possible without an express amendment authorizing it; and when that amendment is adopted, to authorize a certain law, it thereby prevents the subsequent passage of any other law, until the same process is gone through again. Thus, paradoxically, the more power we give to the Legislature, the less power it has; and the more we amend the Constitution, the more amending it needs. The evil is incurable and self-multiplying, and it is nobody's fault."

Those who hold to this view contend that relief will come when California adopts a thorough-going new Constitution on the Federal model.

But apparently, the people of California are as far from authorizing a constitutional convention, as they are from authorizing a one-House Legislature. At the 1914 November elections, by a vote of 442,687 to 180,111, they rejected a plan to call a convention to propose a new Constitution.

So far as the writer knows, no other plans for strengthening the State's legislative system have been proposed.

Back of the situation is, of course, the indifference of the public.

The Legislature continues ineffective for precisely

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200 The Republican is edited by Chester H. Rowell, one of the best informed men on public questions in the State. The quotation is from the Republican of January 17, 1915.

the same reason that at the special election of 1915, at which measures of the greatest importance to the State were voted upon, out of a registration of approximately 1,250,000, only 260,000 voted.

Here is involved a problem to which that of legislative effectiveness is but incidental.

We may drift long, but sooner or later the problem must be met. It is a problem which confronts not California alone, but all the States of the Union. And, for that matter, the Union itself.

APPENDIX

TABLES OF VOTES

The votes included in the accompanying tables are divided under two heads:

(1) Those dealing with so-called Progressive policies—Tables I and II.

(2) Those dealing with so-called moral issues—Tables III and IV.

In selecting measures for tabulation it has not been the intention to pass arbitrarily upon the measures as good or bad. The reader is, however, furnished data showing how the several legislators voted on the measures covered. He can from this data estimate the records of the various members for himself.

TABLE I. SENATE VOTES ON PROGRESSIVE POLICIES.

A. Vote on proposition to extend terms of incumbent superior judges from six to twelve years. See Chapter XVII, page 204.

B. Vote on Kehoe Insurance Rating Bill. See Chapter XX, page 229.

C. Final vote on Senate Bill 345, Butler Dry Zone Bill. See Chapter XIII, page 143.

D. Vote on Assembly Bill 715, State Non-Partisan Bill. See Chapter X, page 109.

E. Vote on Assembly Bill 1456, Form of Ballot Bill. See Chapter X, page 109.

F. Vote on Kehoe amendment to the resolution providing that the members of the Legislature should at the State's expense visit the Panama-Pacific Exposition at San Francisco. Kehoe's amendment struck from the resolution the provision that the State should bear the expense of the

junket, thus leaving the several members to pay their own expenses.

G. Vote on Kehoe's resolution providing for a legislative investigation of the methods of fire insurance associations. See Chapter XX, page 229.

TABLE II. ASSEMBLY VOTES ON PROGRESSIVE POLICIES.

A. Vote on proposition to extend terms of incumbent superior judges from six to twelve years. See Chapter XVIII, page 204.

B. First vote on Assembly Bill 1530, Jitney Bus Bill. See Chapter VI, page 54.

C. Final vote on Assembly Constitutional Amendment No. 40 (Bruck Amendment). See Chapter XII, page 133.

D. Vote on Assembly Bill 715, State Non-Partisan Bill. See Chapter X, page 109.

E. Vote on Assembly Bill 1456, Form of Ballot Bill. See Chapter X, page 109.

F. Vote on Assembly Bill 1457, Presidential Primary Bill. See Chapter X, page 109.

G. Vote on Assembly Bill 1526, Registration Bill. See Chapter X, page 109.

H. Vote on amendment to resolution providing that the members of the Legislature should attend the San Diego Exposition at the State's expense. The amendment struck from the resolution the provision that the State should bear the expense of the junket.

I. Vote on motion to lay on the table a motion that itemized account of the expenses of the "junket" to the San Diego Exposition should be rendered.

J. Vote on Quinn's amendment to the resolution providing that the members of the Legislature should at the State's expense visit the Panama-Pacific Exposition at San Francisco. Quinn's amendment provided that the provision that the State should bear the expense of the junket

should be struck from the resolution. The several members would, had Quinn's motion prevailed, have been left to pay their own expenses.

TABLE III. SENATE VOTES ON SO-CALLED MORAL ISSUES.

A. Vote on Assembly Bill 22, making property responsible for illegal liquor trade. See Chapter XI, page 120.

B. Vote on Assembly Bill 675, prohibiting distribution of alcoholic liquor in school houses. See Chapter XI, page 120.

C. First vote on Senate Bill 343, Butler Dry Zone Bill. See Chapter XIII, page 143.

D. Second vote on Senate Bill 343, Butler Dry Zone Bill. See Chapter XIII, page 143.

E. Vote on Senate Bill 392, requiring public school education in nature of narcotics. See Chapter XI, page 120.

TABLE IV. ASSEMBLY VOTES ON SO-CALLED MORAL ISSUES.

A. Vote on Assembly Bill 22, making property responsible for illegal liquor trade. See Chapter XI, page 120.

B. Vote on Assembly Bill 675, prohibiting distribution of alcoholic liquor in school houses. See Chapter XI, page 120.

C. First vote on Assembly Constitutional Amendment 40 (Bruck Amendment). See Chapter XII, page 133.

D. Second vote on Assembly Constitutional Amendment 40 (Bruck Amendment). See Chapter XII, page 133.

E. Vote on Assembly Bill 236, prohibiting gambling with dice, cards, etc. See Chapter XI, page 120.

F. Vote on Assembly Bill 1518, prohibiting sale of intoxicants in baseball parks. See Chapter XI, page 120.

G. Vote on Senate Bill 392, requiring public school education in nature of narcotics. See Chapter XI, page 120.

Table I—Records of Senators on Seven Test Votes

For Key See Page i.	A S. C. A. 2—Vote against extending terms Incumbent Superior Judges to 12 years.		B S. B. 29—Kehoe Insurance Rating Bill—Vote on.		C S. B. 343—Butler Dry Zone Bill—Final vote.		D A. B. 715—Non-Partisan Election Law.		E A. B. 1456—Form of Ballot Bill.		F Kehoe Amd't. to San Francisco Junket to cut out appropriation.		G Kehoe Resolution for investigation Insurance.		TOTALS.		
	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	For Progressive Policies.	Against Progressive Policies.	Absent.
Anderson		0	*		*		*		*			0	*		5	2	0
Ballard			*			0		0	*		*			0	3	3	1
Beban		0		0		0	*		*					0	2	4	1
Benedict	*		*		*		*		*		*		*		7	0	0
Benson		0		0	*		*		*		*		*		5	2	0
Birdsall	*		*			0	*		*		*		*		6	1	0
Breed		0		0	*		*		*			0		0	3	4	0
Brown	*		*		*		*		*		*		*		7	0	0
Butler	*		*		*		*		*		*		*		7	0	0
Campbell	*			0	*			0	*		*			0	4	3	0
Carr	*		*		*		*		*		*		*		7	0	0
Chandler	*		*		*		*		*		*		*		7	0	0
Cogswell		0		0	*		*		*			0	*		4	3	0
Cohn		0		0		0	*		*			0		0	2	5	0
Crowley		0		0		0	*		*			0		0	2	5	0
Duncan	*		*		*			0		0	*		*		5	2	0
Finn		0		0		0	*		*					0	2	4	1
Flaherty		0		0		0	*		*					0	2	4	1
Flint	*			0		0	*		*			0		0	3	4	0
Gerdes		0		0		0	*		*			0			2	4	1
Hans		0		0		0									0	3	4
Irwin	*			0	*			0			*			0	3	3	1
Jones		0	*		*		*		*		*		*		6	1	0
Kehoe	*		*		*		*		*		*		*		7	0	0
King	*				*		*		*		*		*		6	0	1
Luce	*			0	*		*		*		*		*		6	1	0
Lyon		0	*			0	*		*			0			3	3	1
Maddux		0		0	*		*		*		*		*		5	2	0
Mott	*		*		*		*		*			0		0	5	2	0
Owens	*			0		0		0		0				0	1	5	1
Purkitt		0		0	*			0		0	*			0	2	5	0
Rush		0				0	*		*		*				3	2	2
Scott		0		0		0	*		*			0		0	2	5	0
Shearer		0		0		0		0		0	*			0	1	6	0
Slater		0		0		0	*		*		*		*		4	3	0
Strobridge				0		0	*		*			0			2	3	2
Stuckenbruck		0		0		0		0		0		0		0	0	7	0
Thompson	*		*		*		*		*			0	*		6	1	0
Tyrrell		0		0		0	*		*			0		0	2	5	0
Wolfe		0		0		0		0	*			0		0	1	6	0
Totals	16	22	13	25	20	20	30	9	33	5	20	15	17	18	150	113	17

Vote B—Kehoe changed from "Aye" to "No" to secure reconsideration.
Character "*" indicates vote for Progressive Policies.
Character "0" indicates vote against Progressive Policies.

Table II—Records of Assemblymen on Ten Test Votes

For Key See Page ii.	A. S. C. A. 2—Vote to extend Term incumbent Superior Judges to 12 years.		B. A. B. 1530—Jitney Bus Bill 1st vote.		C. A. C. A. 40—Bruck Amendment, final vote.		D. A. B. 715—Non-Partisan Election Law.		E. A. B. 1456—Form of Ballot Bill.		F. A. B. 1457—Presidential Primary Bill.		G. A. B. 1526—Registration Bill.		H. Amendment to San Diego Junket to cut out appropriation.		I. Motion to lay motion that San Diego Expense Account be laid on Table.		J. Quinn Amendment to San Francisco Junket to cut out appropriation.		TOTALS. For Progressive Policies.	Against Progressive Policies.	Absent.
	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No			
Anderson	0			*	0		*		*		*		*			0	0			0	5	5	0
Arnerich		*			0		*		*							0	0			0	5	4	1
Ashley	0				0			0	*			0		0	*		0		*		3	6	1
Avey		*	0			*	*		*		*		*			0	0			0	6	4	0
Bartlett		*	0			*		0		0		0		0		0		*		0	3	7	0
Beck	0		0		0			0		0		0	*			0	0				1	8	1
Benton		*	0		0			0		0		0		0		0	0			0	1	9	0
Boude		*		*	0		*		*		*		*		*			*	*		9	1	0
Boyce			0	*	0			0		0		0						*		0	1	6	3
Brown		*		*		*		0		0		0		0	*			*	*		6	4	0
Browne		*	0			*		0		0		0		0	*			*	*		5	5	0
Bruck	0		0		0			0				0		0	*			*	*		3	6	1
Burke	0		0			*		0		0		0		0		0		*	*		2	8	0
Byrnes	0			*	0		*		*		*		*			0	0			0	5	4	1
Canepa	0			*	0		*		*		*		*			0	0			0	5	5	0
Cary		*	0		0			0								0		*		0	2	5	3
Chamberlin	0		0		0			0		0		0		0		0		*		0	1	9	0
Chenoweth			0		0		*		*		*			0		0	0				4	4	2
Collins	0			*	0		*				*					0	0			0	2	5	3
Conard			0		0		*		*				*			0	0			0	4	5	1

(Continued on next page.)

TABLE II—RECORDS OF ASSEMBLYMEN ON TEN TEST VOTES (Continued.)

For Key See Page ii.	A S. C. A. 2—Vote to extend Term incumbent Superior Judges to 12 years.		B A. B. 1530—Jitney Bus Bill 1st vote.		C A. C. A. 40—Bruck Amendment, final vote.		D A. B. 715—Non-Partisan Election Law.		E A. B. 1456—Form of Ballot Bill.		F A. B. 1457—Presidential Primary Bill.		G A. B. 1526—Registration Bill.		H Amendment to San Diego Junket to cut out appropriation.		I Motion to lay motion that San Diego Expense Account be laid on Table.		J Quinn Amendment to San Francisco Junket to cut out appropriation.		TOTALS. For Progressive Policies.	Against Progressive Policies.	Absent.
	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No			
Dennett		*	0 *			*	*	0	*	0	*	0		0	*		0	*	*	0	3	3	4
Downing			*				*	0													6	4	0
Edwards, L.					0		*										0			0	1	3	6
Edwards, R. G.			0		0			0		0		0		0			0				0	7	3
Ellis	0			*	0		*		*		*		*				0			0	5	4	1
Encell	0				0		*		*		*		*				0			0	4	4	2
Ferguson	0			*	0		*		*		*		*		*		0			0	6	4	0
Fish		*	0				*		*		*		*		*			*	*		9	1	0
Gebhart	0		0		0		*										0		*		2	4	4
Gelder	0			*		*	*		*		*		*			0	0			0	6	4	0
Godsil	0			*	0		*		*		*		*			0	0			0	5	5	0
Harris	0			*		*	*		*		*		*			0		*		0	7	3	0
Hawson		*	0		0			0		0		0		0	*			*	*		4	6	0
Hayes, D. R.		*	0		0			0		0		0	*		*			*		0	4	6	0
Hayes, J. J.	0			*			*		*		*		*			0	0			0	5	4	1
Johnson	0		0		0		*		*		*		*			0	0			0	4	6	0
Judson		*	0			*	*		*		*		*			0		*			7	2	1
Kennedy	0			*	0		*				*		*				0			0	4	4	2
Kerr	0		0		0		*	0				0	*		*		0			0	3	7	0
Kramer		*		*		*	*		*		*		*		*			*	*		10	0	0
Totals	20	14	22	14	27	11	24	16	22	12	21	15	23	11	12	20	24	16	10	25	168	191	41

Vote B—Downing changed his vote from "No" to "Aye" to secure reconsideration.
Character "*" indicates vote for Progressive Policies.
Character "0" indicates vote against Progressive Policies.

(Continued on next page.)

TABLE II—RECORDS OF ASSEMBLYMEN ON TEN TEST VOTES (Continued.)

For Key See Page ii.	A		B		C		D		E		F		G		H		I		J		TOTALS.		
	S. C. A. 2—Vote to extend Term Incumbent Superior Judges to 12 years.		A. B. 1530—Jitney Bus Bill 1st vote.		A. C. A. 40—Bruck Amendment, final vote.		A. B. 715—Non-Partisan Election Law.		A. B. 1456—Form of Ballot Bill.		A. B. 1457—Presidential Primary Bill.		A. B. 1526—Registration Bill.		Amendment to San Diego Junket to cut out appropriation.		Motion to lay motion that San Diego Expense Account be laid on Table.		Quinn Amendment to San Francisco Junket to cut out appropriation.		For Progressive Policies.	Against Progressive Policies.	Absent.
	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No			
Long		*	0			*		0		0		0		0	*		0				3	6	1
Lostutter		*		*		*		0		0		0		0	*			*	*		6	4	0
Lyon	0		0		0			0		0		0		0		0					0	8	2
McCray		*	0		0			0		0		0		0		0				0	1	8	1
McDonald, J. J.	0			*	0		*		*		*		*			0	0			0	5	5	0
McDonald, W. A.	0			*	0		*	*		*		*		*				*		0	6	3	1
McKnight		*	0			*	*	*				*		*		0		*		0	6	3	1
McPherson	0		0				*	*		*		*		*	*					0	6	3	1
Manning	0		0		0		*	*		*		*		*						0	3	5	2
Marron							*			*		*		*		0	0			0	4	3	3
Meek			0			*	*	*		*		*		*	*		0				6	2	2
Mouser				*	0		*			*		*		*		0	0		0		5	4	1
Pettis		*	0		0			0											0		1	7	2
Phelps		*		*		*	*		*		*		*		*			*	*		10	0	0
Phillips	0		0		0			0				0		0		0	0			0	0	9	1
Prendergast	0		0				*				*		*			0	0				3	4	3
Quinn		*	0			*		0		0		0		0	*				*		4	5	1
Ream			0		0			0		0		0		0			0			0	0	8	2
Rigdon	0			*		*	*		*		*		*			0	0			0	6	4	0
Rodgers	0		0		0			0				0		0			0			0	0	8	2

(Concluded on next page.)

TABLE II—RECORDS OF ASSEMBLYMEN ON TEN TEST VOTES (Concluded.)

For Key See Page ii.	A S. C. A. 2—Vote to extend Term incumbent Superior Judges to 12 years.		B A. B. 1530—Jitney Bus Bill 1st vote.		C A. C. A. 40—Bruck Amendment, final vote.		D A. B. 715—Non-Partisan Election Law.		E A. B. 1456—Form of Ballot Bill.		F A. B. 1457—Presidential Primary Bill.		G A. B. 1526—Registration Bill.		H Amendment to San Diego Junket to cut out appropriation.		I Motion to lay motion that San Diego Expense Account be laid on Table.		J Quinn Amendment to San Francisco Junket to cut out appropriation.		TOTALS. For Progressive Policies.	TOTALS. Against Progressive Policies.	TOTALS. Absent.
	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No			
Rominger		*	0			*		0		0		0		0		0		*		0	3	7	0
Rutherford																							
Ryan	0			**	0		**		***		***		***			0	0			0	5	5	0
Sailsbury				**	0		**		***		***		***			0	0			0	5	2	3
Satterwhite	0				0		**		***		***		***			0	0				4	4	2
Schmitt	0		0		0			0		0		0				0	0			0	0	9	1
Scott, C. E.		*	0		0			0		0		0				0	0			0	1	7	2
Scott, F. C.	0					**	*		*		*		*			0	0				5	3	2
Scott, L. D.		**		**				0		0		0		0		0	0			0	3	7	0
Sharkey		*		*	0		*		*		*		*		*			*	*		9	1	0
Shartel		**				*	*		*		*		*			0	0			0	6	3	1
Sisson		**	0			*	*		*		*		*			0	0			0	6	4	0
Spengler				*				0		0		0		0	*			*			5	4	1
Tabler	0		0		0		*		*		*			0	*		0			0	4	6	0
Widenman	0		0		0		*		*		*						0			0	3	5	2
Wills		*				*	*		*		*			0		0	0	0		0	5	4	1
Wishard		**				***	*		*		***					0		***		0	7	2	1
Wright, H. W.		**	0			***	*		*		***				*			***	*		9	1	0
Wright, T. M.		*	0			***	*		*		***							***		0	7	2	1
Young			0			***	*		*		***				*			***	*		8	1	1
Totals	15	18	22	11	18	19	24	15	23	12	25	14	22	14	11	20	20	11	6	26	170	176	44
Bro't forward.	20	14	22	14	27	11	24	16	22	12	21	15	23	11	12	20	24	16	10	25	168	191	41
Grand Totals.	35	32	44	25	45	30	48	31	45	24	46	29	45	25	23	40	44	27	16	51	338	367	85

Character "*" indicates vote for Progressive Policies.
Character "0" indicates vote against Progressive Policies.

Table III—Records of Senators on Five Votes

DEALING WITH SO-CALLED MORAL ISSUES

For Key See Page iii.	A A. B. 22—Making property responsible for illegal liquor trade.		B A. B. 675—Preventing distribution liquors in school houses.		C S. B. 343—Butler Dry Zone Bill—first vote.		D S. B. 343—Butler Dry Zone Bill—second vote.		E S. B. 392—Providing public school education in nature of narcotics.		TOTALS. For Such Policies.	Against Such Policies.	Absent.
	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No			
Anderson	*		*		*		*		*		5	0	0
Ballard	*					0		0	*		2	2	1
Beban						0		0			0	2	3
Benedict	*				*		*				3	0	2
Benson			*		*		*		*		4	0	1
Birdsall	*		*			0		0	*		3	2	0
Breed	*		*		*		*		*		5	0	0
Brown					*		*		*		3	0	2
Butler	*		*			*	*		*		5	0	0
Campbell	*				*		*		*		4	0	1
Carr	*		*		*		*		*		5	0	0
Chandler	*		*		*		*		*		5	0	0
Cogswell	*		*		*		*		*		5	0	0
Cohn	*		*			0		0	*		3	2	0
Crowley	*					0		0	*		2	2	1
Duncan	*		*		*		*		*		5	0	0
Finn			*			0		0	*		2	2	1
Flaherty	*		*			0		0	*		3	2	0
Flint			*			0		0	*		2	2	1
Gerdes						0		0	*		1	2	2
Hans						0		0			0	2	3
Irwin	*					0	*		*		3	1	1
Jones			*		*		*		*		4	0	1
Kehoe	*		*		*		*		*		5	0	0
King	*		*		*		*		*		5	0	0
Luce	*		*		*		*		*		5	0	0
Lyon	*		*			0		0			2	2	1
Maddux	*		*		*		*				4	0	1
Mott	*				*		*		*		4	0	1
Owens	*					0		0	*		2	2	1
Purkitt	*				*		*		*		4	0	1
Rush	*		*					0			2	1	2
Scott	*					0		0			1	2	2
Shearer	*		*			0		0	*		3	2	0
Slater	*					0		0	*		2	2	1
Strobridge	*		*					0	*		3	1	1
Stuckenbruck	*					0		0	*		2	2	1
Thompson	*		*		*		*		*		5	0	1
Tyrrell			*			0		0	*		2	2	1
Wolfe						0		0	*		1	2	2
Totals	30	0	24	0	18	20	20	20	33	0	126	39	37

Vote C—Butler changed his vote from Aye to No to move to reconsider.
Character "*" indicates a vote for such policies.
Character "0" indicates a vote against such policies.

Table IV—Records of Assemblymen on Seven Votes

DEALING WITH SO-CALLED MORAL ISSUES

For Key See Page iii.	A		B		C		D		E		F		G		TOTALS.		
	A. B. 22—Making property responsible for Illegal Liquor Trade.		A. B. 675—Preventing Distribution of Liquor at School Houses.		A. C. A. 40—Bruck Amendment, first vote.		A. C. A. 40—Bruck Amendment, second vote.		A. B. 236—To prevent gambling with dice, cards, etc.		A. B. 1518—To prevent sale of intoxicants in Baseball parks.		S. B. 392—Providing Public School Education in nature of Narcotics.		For such Policies.	Against such Policies.	Absent.
	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No			
Anderson	*			0	0		0			0		0	*		2	5	
Arnerich	*		*		0		0			0		0	*		3	4	
Ashley			*		0		0			0		0	*		2	4	
Avey	*		*			*		*			*		*		6	0	
Bartlett	*		*			*		*		0		0	*		5	2	
Beck	*		*		0		0			0		0			2	4	
Benton	*		*		0		0			0		0	*		3	4	
Boude	*		*		0		0		*		*		*		5	2	
Boyce					0		0			0		0	*		1	4	
Brown	*		*			*		*		0	*		*		6	0	
Browne	*		*			*		*		0	*		*		6	1	
Bruck	*		*		0		0			0		0	*		3	4	
Burke	*		*			*		*	*			0	*		6	1	
Byrnes			*		0		0			0		0	*		2	4	
Canepa					0		0			0				0	0	4	
Cary			*		0		0			0					1	3	
Chamberlin			*			*	0			0		0			2	3	
Chenoweth			*		0		0					0			1	3	
Collins					0		0					0			0	3	
Conard			*		0		0								1	2	
Dennett	*		*			*			*				*		5	0	
Downing	*		*			*		*			*		*		6	0	
Edwards, L.					0		0								0	2	
Edwards, R. G.	*		*		0		0			0		0	*		3	4	
Ellis			*		0		0			0			*		2	3	
Encell	*		*		0		0			0		0			2	4	
Ferguson	*		*		0		0			0		0	*		3	4	
Fish			*			*		*	*		*		*		6	0	
Gebhart			*		0		0			0					1	3	
Gelder	*			0	0			*				0			2	3	
Godsil				0	0		0			0			*		1	4	
Harris			*		0			*		0					2	2	
Hawson	*		*		0		0			0		0	*		3	4	
Hayes, D. R.	*		*		0		0			0			*		2	3	
Hayes, J. J.	*		*		0					0		0	*		3	3	
Johnson	*		*			*	0					0			3	2	
Judson	*		*			*		*			*		*		6	0	
Kennedy			*		0		0			0					1	3	
Kerr	*		*		0		0			0		0			2	4	
Kramer	*		*			*		*	*		*		*		7	0	
Totals	23		33	3	28	12	27	11	5	25	8	21	25	1	117	105	5

Character "*" indicates vote for such policies.
Character "0" indicates vote against such policies.

(Concluded on next page.

Table IV Con.—Records of Assemblymen on Seven Votes

DEALING WITH SO-CALLED MORAL ISSUES

For Key See Page iii.	A. A. B. 22—Making property responsible for Illegal Liquor Trade.		B. A. B. 675—Preventing Distribution of Liquor at School Houses.		C. A. A. 40—Bruck Amendment, first vote.		D. A. C. A. 40—Bruck Amendment, second vote.		E. A. B. 236—To prevent gambling with dice, cards, etc.		F. A. B. 1518—To prevent sale of intoxicants in Baseball parks.		G. S. B. 392—Providing Public School Education in nature of Narcotics.		TOTALS.		
	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	Aye	No	For such Policies.	Against such Policies.	Absent.
Long	*		*			*		*	*		*		*		7	0	0
Lostutter	*		*			*		*	*		*		*		7	0	0
Lyon	*		*		0		0			0		0	*		3	4	0
McCray			*		0		0			0		0		0	1	5	1
McDonald, J. J.	*		*		0		0			0		0			2	4	1
McDonald, W. A.					0		0			0		0			0	4	3
McKnight	*		*			*		*					*		5	0	2
McPherson	*		*					*				0	*		4	1	2
Manning					0		0			0		0	*		3	4	0
Marron					0									0	0	2	5
Meek	*		*		0			*	*			0	*		5	2	0
Mouser	*		*		0		0					0	*		3	3	1
Pettis		0	*		0		0		*			0	*		3	4	0
Phelps	*		*			*		*	*		*		*		7	0	0
Phillips		0		0	0		0			0		0			0	6	1
Prendergast	*				0					0		0	*		2	3	2
Quinn		0	*			*		*	*			0			4	2	1
Ream			*		0		0			0		0		0	1	5	1
Rigdon	*		*		0			*							3	1	3
Rodgers					0		0			0		0	*		1	4	2
Rominger			*			*		*					*		4	0	3
Rutherford															0	0	7
Ryan			*		0		0			0		0		0	1	5	1
Salisbury	*		*		0		0			0		0			2	4	1
Satterwhite	*		*			*	0					0	*		4	2	1
Schmitt	*		*		0		0			0		0	*		3	4	0
Scott, C. E.	*		*		0		0					0	*		3	3	1
Scott, F. C.	*		*			*		*		0		0	*		5	2	0
Scott, L. D.	*		*			*		*			*		*		6	0	1
Sharkey					0		0			0			*		1	3	3
Shartel	*		*		0			*	*				*		5	1	1
Sisson	*		*			*		*				0	*		5	1	1
Spengler	*			0		*		*		0		0	*		4	3	0
Tabler	*		*		0		0			0		0	*		3	4	0
Widenman			*		0		0			0			*		2	3	2
Wills	*		*			*		*		0	*				5	1	1
Wishard	*		*			*		*	*		*		*		7	0	0
Wright, H. W.	*		*			*		*	*		*		*		7	0	0
Wright, T. M.	*		*			*		*	*		*		*		7	0	0
Young	*		*			*		*	*		*		*		7	0	0
Totals	27	3	32	2	22	16	18	19	11	18	9	23	28	4	142	90	48
Bro't forward.	23	0	33	3	28	12	27	11	5	25	8	21	25	1	117	105	58
Grand Totals.	50	3	65	5	50	28	45	30	16	43	17	44	53	5	259	195	106

Character "*" indicates vote for such policies.
Character "0" indicates vote agalnst such policies.